Chapter 21A.24
CRITICAL AREAS
(Formerly Environmentally Sensitive Areas)

Sections:

21A.24.010 Purpose. The purpose of this chapter is to implement the goals and policies of the Growth Management Act, chapter 3670A RCW, Washington state Environmental Policy Act, chapter 43.21C RCW, and the King County Comprehensive Plan, which call for protection of the natural environment and the public health and safety by:

A. Establishing development and alteration standards to protect functions and values of critical areas;

B. Protecting members of the general public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, avalanche, landslides, seismic and volcanic events, soil subsidence or steep slope failures;

C. Protecting unique, fragile and valuable elements of the environment including, but not limited to, fish and wildlife and their habitats, and maintaining and promoting countywide native biodiversity;

D. Requiring mitigation of unavoidable impacts to critical areas, by regulating alterations in or near critical areas;

E. Preventing cumulative adverse environmental impacts on water availability, water quality, ground water, wetlands and aquatic areas;

F. Measuring the quantity and quality of wetland and aquatic area resources and preventing overall net loss of wetland and aquatic area functions;

G. Protecting the public trust as to navigable waters, aquatic resources, and fish and wildlife and their habitat;

H. Meeting the requirements of the National Flood Insurance Program and maintaining King County as an eligible community for federal flood insurance benefits;

I. Alerting members of the public including, but not limited to, appraisers, owners, potential buyers or lessees to the development limitations of critical areas; and

J. Providing county officials with sufficient information to protect critical areas. (Ord. 15051 § 131, 2004: Ord. 11621 § 69, 1994: 10870 § 448, 1993).

21A.24.020 Applicability.

A. This chapter applies to all land uses in King County, and all persons within the county shall comply with this chapter.

B. King County shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water or vegetation or to construct or alter any structure or improvement without first ensuring compliance with this chapter.

C. Approval of a development proposal in accordance with this chapter does not discharge the obligation of the applicant to comply with this chapter.

D. When any other chapter of the King County Code conflicts with this chapter or when the provisions of this chapter are in conflict, the provision that provides more protection to environmentally critical areas apply unless specifically provided otherwise in this chapter or unless the provision conflicts with federal or state laws or regulations.

E. This chapter applies to all forest practices over which the county has jurisdiction under chapter 76.09 RCW and Title 222 WAC. (Ord. 15051 § 132, 2004: Ord. 10870 § 449, 1993).

21A.24.030 Appeals. An applicant may appeal a decision to approve, condition or deny a development proposal based on K.C.C. chapter 21A.24 according to and as part of the appeal procedure for the permit or approval involved as provided in K.C.C. 20.20.020. (Ord. 15051 § 133, 2004: Ord. 10870 § 450, 1993).

21A.24.040 Rules. Applicable departments within King County are authorized to adopt, in accordance with K.C.C. chapter 2.98, such public rules and regulations as are necessary and appropriate to implement K.C.C. chapter 21A.24 and to prepare and require the use of such forms as are necessary to its administration. (Ord. 15051 § 134, 2004: Ord. 10870 § 451, 1993).

21A.24.045 Allowed alterations.

A. Within the following seven critical areas and their buffers all alterations are allowed if the alteration complies with the development standards, mitigation requirements and other applicable requirements established in this chapter:

1. Critical aquifer recharge area,
2. Coal mine hazard area;
3. Erosion hazard area;
4. Flood hazard area except in the severe channel migration hazard area;
5. Landslide hazard area under forty percent slope;
6. Seismic hazard area; and
7. Volcanic hazard areas.

B. Within the following seven critical areas and their buffers, unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations on the table in subsection C. of this section are allowed if the alteration complies with conditions in subsection D. of this section and the development standards, mitigation requirements and other applicable requirements established in this chapter:

1. Severe channel migration hazard area;
2. Landslide hazard area over forty percent slope;
3. Steep slope hazard area;
4. Wetland;
5. Aquatic area;
6. Wildlife habitat conservation area; and
7. Wildlife habitat network.

C. In the following table where an activity is included in more than one activity category, the numbered conditions applicable to the most specific description of the activity governs. Where more than one numbered condition appears for a listed activity, each of the relevant conditions specified for that activity within the given critical area applies. For alterations involving more than one critical area, compliance with the conditions applicable to each critical area is required.

KEY
Letter "A" in a cell means alteration is allowed

A number in a cell means the corresponding numbered condition in subsection D. applies

"Wildlife area and network" column applies to both Wildlife Habitat Conservation Area and Wildlife Habitat Network

ACTIVITY	LANDSLIDE HAZARD OVER 40% AND BUFFER	STEEP SLOPE HAZARD AND BUFFER	WETLAND AND BUFFER	AQUATIC AREA AND BUFFER	CHANNEL MIGRATION SEVERE	WILDLIFE AREA AND NETWORK
Structures						
Construction of new single detached dwelling unit			A 1	A 2		
Construction of nonresidential structure			A 3	A 3		A 3, 4
Maintenance or repair of existing structure	A 5	A	A	A		A 4
Expansion or replacement of existing structure	A 5, 7	A 5, 7	A 7, 8	A 6, 7, 8		A 4, 7
Interior remodeling	A	A	A	A		A
Construction of new dock or pier			A 9	A 9, 10, 11		
Maintenance, repair or replacement of dock or pier			A 12	A 10, 11		A 4
Grading						
Grading		A 13		A 14		A 4, 14
Construction of new slope stabilization	A 15	A 15	A 15	A 15		A 4, 15
Maintenance of existing slope stabilization	A 16	A 13	A 17	A 16, 17		A 4
Mineral extraction	A	A				
Clearing						
Clearing	A 18	A 18, 19	A 18, 20	A 14, 18, 20		A 4, 14, 18, 20
Cutting firewood		A 21	A 21	A 21		A 4, 21
Removal of vegetation for fire safety			A 22	A 22		A 4, 22
Removal of noxious weeds or invasive vegetation	A 23	A 23	A 23	A 23		A 4, 23
Forest Practices						
Nonconversion Class IV-G forest practice	A 24	A 24	A 24	A 24		A 24, 25
Class I, II, III, IV-S forest practice	A	A	A	A		A

Roads					
Construction of new public road right-of-way structure on unimproved right-of-way			A 26	A 26	
Maintenance of public road right-of-way structure	A 16	A 16	A 16	A 16	A 16, 27
Expansion beyond public road right-of way structure	A	A	A 26	A 26	
Repair, replacement or modification within the roadway	A 16	A 16	A 16	A 16	A 16, 27
Construction of driveway or private access road	A 28	A 28	A 28	A 28	A 28
Construction of farm field access drive	A 29	A 29	A 29	A 29	A 29
Maintenance of driveway, private access road or farm field access drive	A	A	A 17	A 17	A 17, 27
Bridges or culverts					
Maintenance or repair of bridge or culvert	A 16, 17	A 16, 17	A 16, 17	A 16, 17	A 16, 17, 27
Replacement of bridge or culvert	A 16	A 16	A 16	A 16, 30	A 16, 27
Expansion of bridge or culvert	A	A	A 31	A 31	A 4
Utilities and other infrastructure					
Construction of new utility corridor or utility facility	A 32, 33	A 32, 33	A 32, 34	A 32, 34	A 27, 32, 35
Maintenance, repair or replacement of utility corridor or utility facility	A 32, 33	A 32, 33	A 32, 34, 36	A 32, 34, 36	A 4, 32, 37
Maintenance or repair of existing well	A 37	A 37	A 37	A 37	A 4, 37
Maintenance or repair of on-site sewage disposal system	A	A	A	A 37	A 4
Construction of new surface water conveyance system	A 33	A 33	A 38	A 32, 39	A 4
Maintenance, repair or replacement of existing surface water conveyance system	A 33	A 33	A 16, 32, 39	A 16, 40, 41	A 4, 37
Construction of new surface water flow control or surface water quality treatment facility			A 32	A 32	A 4, 32
Maintenance or repair of existing surface water flow control or surface water quality treatment facility	A 16	A 16	A 16	A 16	A 4
Construction of new flood protection facility			A 42	A 42	A 27, 42
Maintenance, repair or replacement of flood protection facility	A 33, 43	A 33, 43	A 43	A 43	A 27, 43
Construction of new instream structure or instream work	A 16	A 16	A 16	A 16, 44, 45	A 4, 16, 44, 45
Maintenance or repair of existing instream structure	A 16	A	A	A	A 4

Recreation areas					
Construction of new trail	A 46	A 46	A 47	A 47	A 4, 47
Maintenance of outdoor public park facility, trail or publicly improved recreation area	A 48	A 48	A 48	A 48	A 4, 48
Habitat and science projects					
Habitat restoration or enhancement project	A 49	A 49	A 49	A 49	A 4, 49
Scientific sampling for salmonids			A 50	A 50	A 50
Drilling and testing for critical areas report	A 51	A 51	A 51, 52	A 51, 52	A 4
Agriculture					
Horticulture activity including tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Grazing livestock	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of livestock manure storage facility			A 53, 54, 55	A 53, 54, 55, 56	A 53, 54
Construction or maintenance of livestock flood sanctuary			A	A 56	
Construction of agricultural drainage			A 57	A 57	A 4, 57
Maintenance of agricultural drainage	A 58	A 58	A 53, 54, 58	53, 54, 58	A 4, 53, 54, 58
Construction or maintenance of farm pond, fish pond or livestock watering pond	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Other					
Excavation of cemetery graves in established and approved cemetery	A	A	A	A	A
Maintenance of cemetery graves	A	A	A	A	A
Maintenance of lawn, landscaping or gardening for personal consumption	A 59	A 59	A 59	A 59	A 59
Maintenance of golf course	A 17	A 17	A 17	A 17	A 4, 17

D. The following alteration conditions apply:

1. Limited to farm residences in grazed or tilled wet meadows and subject to the limitations of subsection D.3. of this section.

2. Allowed in a buffer of a lake that is twenty acres or larger on a lot that was created before January 1, 2005, if:

a. at least seventy-five percent of the lots abutting the shoreline of the lake or seventy-five percent of the lake frontage, whichever constitutes the most developable lake frontage, has existing density of four dwelling units per acre or more;

b. the development proposal, including mitigation required by this chapter, will have the least adverse impact on the critical area;

c. existing native vegetation within the critical area buffer will remain undisturbed except as necessary to accommodate the development proposal and required building setbacks;

d. access is located to have the least adverse impact on the critical area and critical area buffer;

e. the alteration is the minimum necessary to accommodate the development proposal and in no case in excess of a development footprint of five thousand square feet;

f. the alteration does not exceed the residential development setbacks required under K.C.C. chapter 25.04 and in no circumstances shall the alteration be allowed closer than:

(1) twenty-five feet of the ordinary high water mark of a lake shoreline designated urban under K.C.C. chapter 25.16;

(2) fifty feet of the ordinary high water mark of a lake shoreline designated rural under K.C.C. chapter 25.20 or conservancy under K.C.C. chapter 25.24; or

(3) one hundred feet of the ordinary high water mark of a lake shoreline designated natural under K.C.C. chapter 25.28; and

g. to the maximum extent practical, alteration are mitigated on the development proposal site by enhancing or restoring remaining critical area buffers.

3. Limited to nonresidential farm-structures in grazed or tilled wet meadows or buffers of wetlands or aquatic areas where:

a. the site is predominantly used for the practice of agriculture;

b. the structure is in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051;

c. the structure is either:

(1) on or adjacent to existing nonresidential impervious surface areas, additional impervious surface area is not created waterward of any existing impervious surface areas and the area was not used for crop production;

(2) higher in elevation and no closer to the critical area than its existing position; or

(3) at a location away from existing impervious surface areas that is determined to be the optimum site in the farm management plan;

d. all best management practices associated with the structure specified in the farm management plan are installed and maintained;

e. installation of fencing in accordance with K.C.C. chapter 21A.30 does not require the development of a farm management plan if required best management practices are followed and the installation does not require clearing of critical areas or their buffers; and

f. in a severe channel migration hazard area portion of an aquatic buffer only if:

(1) there is no feasible alternative location on-site;

(2) the structure is located where it is least subject to risk from channel migration;

(3) the structure is not used to house animals or store hazardous substances; and

(4) the total footprint of all accessory structures within the severe channel migration hazard area will not exceed the greater of one thousand square feet or two percent of the severe channel migration hazard area on the site.

4. Allowed if no clearing, external construction or other disturbance in a wildlife habitat conservation area occurs during breeding seasons established under K.C.C. 21A.24.382.

5. Allowed for structures when:

a. the landslide hazard poses little or no risk of injury;

b. the risk of landsliding is low; and

c. there is not an expansion of the structure.

6. Within a severe channel migration hazard area allowed for:

a. existing primary structures if:

(1) there is not an increase of the footprint of any existing structure; and

(2) there is not a substantial improvement as defined in K.C.C. 21A.06.1270; and

b. existing accessory structures if:

(1) additions to the footprint will not make the total footprint of all existing structures more than one-thousand square feet; and

(2) there is not an expansion of the footprint towards any source of channel migration hazard, unless the applicant demonstrates that the location is less subject to risk and has less impact on the critical area.

7. Allowed only in grazed wet meadows or the buffer or building setback outside a severe channel migration hazard area if:

a. the expansion or replacement does not increase the footprint of a nonresidential structure;

b.(1) for a dwelling unit, the expansion or replacement, including any expansion of an accessory structure allowed under this subsection B.7.b., does not increase the footprint of the dwelling unit and all other structures by more than one thousand square feet;

(2) for a structure accessory to a dwelling unit, the expansion or replacement is located on or adjacent to existing impervious surface areas and does not increase the footprint of the accessory structure and the dwelling unit by more than one thousand square feet; and

(3) the location of the expansion has the lease adverse impact on the critical area;

c. the structure was not established as the result of a variance, buffer averaging or reasonable use exception; and

d. to the maximum extent practical, the expansion or replacement is not located closer to the critical area or within the relic of a channel that can be connected to an aquatic area.

8. Allowed upon another portion of an existing impervious surface outside a severe channel migration hazard area if:

a. the structure is not located closer to the critical area; and

b. the existing impervious surface within the critical area or buffer is not expanded.

9. Limited to seasonal floating docks or piers in a category II, III or IV wetland or its buffer or along a lake shoreline or its buffer where:

a. the existing and zoned density of all properties abutting the entire lake shoreline averages three dwelling units per acre or more;

b. at least seventy-five percent of the lots abutting the shoreline or seventy-five percent of the lake frontage, whichever constitutes the most lake frontage, has been developed with dwelling units;

c. there is not any significant vegetation where the alteration is proposed and the loss of vegetation was not the result of any violation of law;

d. the wetland or lake shoreline is not a salmonid spawning area; and

e. hazardous substances or toxic materials are not used.

10. Allowed on type N or O aquatic areas if hazardous substances or toxic materials are not used.

11. Allowed on type S or F aquatic areas outside of the severe channel migration hazard area if in compliance with K.C.C. Title 25.

12. When located on a lake, must be in compliance with K.C.C. Title 25.

13. Limited to regrading and stabilizing of a slope formed as a result of a legal grading activity.

14. The following are allowed in the severe channel migration hazard area if conducted more than one-hundred and sixty-five feet from the ordinary high water mark in the rural area and one-hundred and fifteen feet from the ordinary high water mark in the urban area:

a. grading of up to fifty cubic yards on lot less than five acres; and

b. clearing of up to one-thousand square feet or up to a cumulative thirty-five percent of the severe channel migration hazard area.

15. Only where erosion or landsliding threatens a structure, utility facility, roadway, driveway, public trails, aquatic area or wetland if, to the maximum extent practical, stabilization work does not disturb the slope and its vegetative cover and any associated critical areas.

16. Allowed when performed by, at the direction of or authorized by a government agency in accordance with regional road maintenance guidelines.

17. Allowed when not performed under the direction of a government agency only if:

a. the maintenance does not involve the use of herbicides, hazardous substances, sealants or other liquid oily substances in aquatic areas, wetlands or their buffers; and

b. when maintenance or replacement of bridges or culverts involves water used by salmonids:

(1) the work is in compliance with ditch standards in public rule; and

(2) the maintenance of culverts is limited to removal of sediment and debris from the culvert and its inlet, invert and outlet and the stabilization of the disturbed or damaged bank or channel immediately adjacent to the culvert and shall not involve the excavation of a new sediment trap adjacent to the inlet.

18. Allowed for the removal of hazard trees and vegetation as necessary for surveying or testing purposes.

19. The limited trimming and pruning of vegetation for the making and maintenance of views if the soils are not disturbed and the activity will not adversely affect the long term stability of the slope, erosion or water quality.

20. Harvesting of plants and plant materials, such as plugs, stakes, seeds or fruits, for restoration and enhancement projects is allowed.

21. Cutting of firewood is subject to the following:

a. within a wildlife habitat conservation area, cutting firewood is not allowed;

b. within a wildlife network, cutting shall be in accordance with a management plan approved under K.C.C. 21A.14.270, as recodified by this ordinance; and

c. within a critical area buffer, cutting shall be for personal use and in accordance with an approved forest management plan or rural stewardship plan.

22. Allowed only in buffers if in accordance with best management practices approved by the King County fire marshal.

23. Allowed as follows:

a. if conducted in accordance with an approved forest management plan, farm management plan, or rural stewardship plan; or

. b. without an approved forest management plan, farm management plan or rural stewardship plan, only if:

(1) removal is undertaken with hand labor, including hand-held mechanical tools, unless the King County noxious weed control board otherwise prescribes the use of riding mowers, light mechanical cultivating equipment or herbicides or biological control methods;

(2) the area is stabilized to avoid regrowth or regeneration of noxious weeds;

(3) the cleared area is revegetated with native or noninvasive vegetation and stabilized against erosion; and

(4) herbicide use is in accordance with federal and state law;

24. Only if in accordance with chapter 76.09 RCW and Title 222 WAC and:

a. a forest management plan is approved for the site by the King County department of natural resources and parks; and

b. the property owner provides a notice of intent in accordance with RCW 76.09.060 that the site will not be converted to nonforestry uses within six years.

25. Only if in compliance with published Washington state Department of Fish and Wildlife and Washington state Department of Natural Resources Management standards for the species. If there are no published Washington state standards, only if in compliance with management standards determined by the county to be consistent with best available science.

26. Allowed only if:

a. there is not another feasible location with less adverse impact on the critical area and its buffer;

b. the corridor is not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the department determines that there is no other feasible crossing site.

c. the corridor width is minimized to the maximum extent practical;

d. the construction occurs during approved periods for instream work; and

e. the corridor will not change or diminish the overall aquatic area flow peaks, duration or volume or the flood storage capacity.

27. To the maximum extent practical, during breeding season established under K.C.C. 21A.24.382, land clearing machinery such as bulldozers, graders or other heavy equipment are not operated within a wildlife habitat conservation area.

28. Allowed only if:

a. an alternative access is not available;

b. impact to the critical area is minimized to the maximum extent practical including the use of walls to limit the amount of cut and fill necessary;

c. the risk associated with landslide and erosion is minimized;

d. access is located where it is least subject to risk from channel migration; and

e. construction occurs during approved periods for instream work.

29. Only if in compliance with a farm management plan in accordance with K.C.C. 21A.24.051.

30. Allowed only if:

a. the replacement is made fish passable in accordance with the most recent Washington state Department of Fish and Wildlife manuals or with the National Marine and Fisheries Services guidelines for federally listed salmonid species; and

b. the site is restored with appropriate native vegetation.

31. Allowed if necessary to bring the bridge or culvert up to current standards and if:

a. there is not another feasible alternative available with less impact on the aquatic area and its buffer; and

b. to the maximum extent practical, the bridge or culvert is located to minimize impacts to the aquatic area and its buffer's.

32. Allowed in an existing roadway if conducted consistent with the regional road maintenance guidelines.

33. Allowed outside the roadway if:

a. the alterations will not subject the critical area to an increased risk of landslide or erosion;

b. vegetation removal is the minimum necessary to locate the utility or construct the corridor; and

c. significant risk of personal injury is eliminated or minimized in the landslide hazard area.

34. Limited to the pipelines, cables, wires and support structures of utility facilities within utility corridors if:

a. there is no alternative location with less adverse impact on the critical area and critical area buffer;

b. new utility corridors meet the all of the following to the maximum extent practical:

(1) are not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the department determines that there is no other feasible crossing site;

(2) the mean annual flow rate is less than twenty cubic feet per second; and

(3) paralleling the channel or following a down-valley route near the channel is avoided;

c. to the maximum extent practical utility corridors are located so that:

(1) the width is the minimized;

(2) the removal of trees greater than twelve inches diameter at breast height is minimized;

(3) an additional, contiguous and undisturbed critical area buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the critical area;

d. to the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary the following standards are met:

(1) to the maximum extent practical the width of the maintenance road is minimized and in no event greater than fifteen feet; and

(2) the location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;

e. the utility corridor or facility will not adversely impact the overall critical area hydrology or diminish flood storage capacity;

f. the construction occurs during approved periods for instream work;

g. the utility corridor serves multiple purposes and properties to the maximum extent practical;

h. bridges or other construction techniques that do not disturb the critical areas are used to the maximum extent practical;

i. bored, drilled or other trenchless crossing is laterally constructed at least four feet below the maximum depth of scour for the base flood;

j. bridge piers or abutments for bridge crossing are not placed within the FEMA floodway or the ordinary high water mark;

k. open trenching is only used during low flow periods or only within aquatic areas when they are dry. The department may approve open trenching of type S or F aquatic areas only if there is not a feasible alternative and equivalent or greater environmental protection can be achieved; and

l. minor communication facilities may collocate on existing utility facilities if:

(1) no new transmission support structure is required; and

(2) equipment cabinets are located on the transmission support structure.

35. Allowed only for new utility facilities in existing utility corridors.

36. Allowed for private individual utility service connections on site or to public utilities if the disturbed area is not expanded and no hazardous substances, pesticides or fertilizers are applied.

37. Allowed if the disturbed area is not expanded, clearing is limited to the maximum extent practical and no hazardous substances, pesticides or fertilizers are applied.

38. Allowed if conveying the surface water into the wetland buffer and discharging into the wetland buffer or at the wetland edge has less adverse impact upon the wetland or wetland buffer than if the surface water were discharged at the buffer's edge and allowed to naturally drain through the buffer.

39. Allowed if constructed only with vegetation.

40. Allowed for an open, vegetated stormwater management conveyance system and outfall structure that simulates natural conditions if:

a. fish habitat features necessary for feeding, cover and reproduction are included when appropriate;

b. vegetation is maintained and added adjacent to all open channels and ponds, if necessary to prevent erosion, filter out sediments or shade the water; and

c. bioengineering techniques are used to the maximum extent practical.

41. Allowed for a closed, tightlined conveyance system and outfall structure if:

a. necessary to avoid erosion of slopes; and

b. bioengineering techniques are used to the maximum extent practical.

42. Allowed in a severe channel migration hazard area portion of an aquatic area buffer to prevent bank erosion only:

a. if consistent with Washington state Integrated Stream Protection Guidelines and if bioengineering techniques are used to the maximum extent practical, unless the applicant demonstrates that other methods provide equivalent structural stabilization and environmental function; and

b. to prevent bank erosion for the protection of:

(1) public roadways;

(2) sole access routes in existence before February 16, 1995; or

(3) new primary dwelling units, accessory dwelling units or accessory living quarters and residential accessory structures located outside the severe channel migration hazard area if:

(a) the site is adjacent to or abutted by properties on both sides containing buildings or sole access routes protected by legal bank stabilization in existence before February 16, 1995. The buildings, sole access routes or bank stabilization must be located no more than six hundred feet apart as measured parallel to the migrating channel; and

(b) the new primary dwelling units, accessory dwelling units, accessory living quarters or residential accessory structures are located no closer to the aquatic area than existing primary dwelling units, accessory dwelling units, accessory living quarters or residential accessory structures on abutting or adjacent properties.

43. Applies to lawfully established existing structures if:

a. maintained by a public agency;

b. the height of the facility is not increased;

c. the linear length of the affected edge of the facility is not increased;

d. the footprint of the facility is not expanded waterward;

e. consistent with King County's Guidelines for Bank Stabilization Projects (King County Surface Water Management 1993) and bioengineering techniques are used to the maximum extent practical; and

f. the site is restored with appropriate native vegetation.

44. Allowed in type N and O aquatic areas if done in least impacting way at least impacting time of year, in conformance with applicable best management practices, and all affected instream and buffer features are restored.

45. Allowed in a type S or F water when such work is:

a. included as part of a project to evaluate, restore or improve habitat, and

b. sponsored or cosponsored by a public agency that has natural resource management as a function or by a federally recognized tribe.

46. Allowed as long as the trail is not constructed of impervious surfaces that will contribute to surface water run-off, unless the construction is necessary for soil stabilization or soil erosion prevention or unless the trail system is specifically designed and intended to be accessible to handicapped persons.

47. Not allowed in a wildlife habitat conservation area. Otherwise, allowed as far landward as feasible in the buffer if:

a. the trail surface is not made of impervious materials, except that public multipurpose trails may be made of impervious materials if they meet all the requirements in K.C.C. chapter 9.12; and

b. to the maximum extent practical, buffers are expanded equal to the width of the trail corridor including disturbed areas.

48. Only if the maintenance:

a. does not involve the use of herbicides or other hazardous substances except for the removal of noxious weeds or invasive vegetation;

b. when salmonids are present, the maintenance is in compliance with ditch standards in public rule; and

c. does not involve any expansion of the roadway, lawn, landscaping, ditch, culvert, engineered slope or other improved area being maintained.

49. Limited to:

a. projects sponsored or cosponsored by a public agency that has natural resource management as a primary function or by a federally recognized tribe;

b. restoration and enhancement plans prepared by a qualified biologist; or

c. conducted in accordance with an approved forest management plan, farm management plan or rural stewardship plan.

50. Allowed in accordance with a scientific sampling permit issued by Washington state Department of Fish and Wildlife or an incidental take permit issued under Section 10 of the Endangered Species Act.

51. Allowed for the limited clearing and grading needed to prepare critical area reports.

52. The following are allowed if associated spoils are contained:

a. data collection and research if carried out to the maximum extent practical by nonmechanical or hand-held equipment;

b. survey monument placement;

c. site exploration and gage installation if performed in accordance with state-approved sampling protocols and accomplished to the maximum extent practical by hand-held equipment and; or similar work associated with an incidental take permit issued under Section 10 or consultation under Section 7 of the Endangered Species Act.

53. Limited to activities in continuous existence since January 1, 2005, with no expansion within the critical area or critical area buffer. "Continuous existence" includes cyclical operations and managed periods of soil restoration, enhancement or other fallow states associated with these horticultural and agricultural activities.

54. Allowed for expansion of existing or new agricultural activities where:

a. the site is predominantly involved in the practice of agriculture;

b. there is no expansion into an area that:

(1) has been cleared under a class I, II, III, IV-S or nonconversion IV-G forest practice permit; or

(2) is more than ten thousand square feet with tree cover at a uniform density more than ninety trees per acre and with the predominant mainstream diameter of the trees at least four inches diameter at breast height, not including areas that are actively managed as agricultural crops for pulpwood, Christmas trees or ornamental nursery stock;

c. the activities are in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051; and

d. all best management practices associated with the activities specified in the farm management plan are installed and maintained.

55. Only allowed in grazed or tilled wet meadows or their buffers if:

a. the facilities are designed to the standards of an approved farm management plan in accordance K.C.C. 21A.24.051 or an approved livestock management plan in accordance with K.C.C. chapter 21A.30;

b. there is not a feasible alternative location available on the site; and

c. the facilities are located close to the outside edge of the buffer to the maximum extent practical.

56. Allowed in a severe channel migration hazard area portion of an aquatic area buffer if:

a. the facilities are designed to the standards in an approved farm management plan in accordance with K.C.C. 21A.24.051;

b. there is not a feasible alternative location available on the site; and

c. the structure is located where it is least subject to risk from channel migration.

57. Allowed for new agricultural drainage in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051 and all best management practices associated with the activities specified in the farm management plan are installed and maintained.

58. If the agricultural drainage is used by salmonids, maintenance shall be in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051.

59. Allowed within existing landscaped areas or other previously disturbed areas. (Ord. 15051 § 137, 2004).

21A.24.051 Agricultural activities development standards.

A. The alterations identified in K.C.C. 21A.24.045 for agricultural activities are allowed to expand within the buffers of wetlands, aquatic areas and wildlife habitat conservation areas, when an agricultural activity is currently occurring on the site and the alteration is in compliance with an approved farm management plan in accordance with this section or, for livestock activities, a farm management plan in accordance with K.C.C. chapter 21A.30.

B. This section does not modify any requirement that the property owner obtain permits for activities covered by the farm management plan.

C. The department of natural resources and parks or its designee shall serve as the single point of contact for King County in providing information on farm management plans for purposes of this title. The department of natural resources and parks shall adopt a public rule governing the development of farm management plans. The rule may provide for different types of farms management plans related to different kinds of agricultural activities, including, but not limited to the best management practices for dairy nutrient management, livestock management, horticulture management, site development and agricultural drainage.

D. A property owner or applicant seeking to use the process to allow alterations in critical area buffers shall develop a farm management plan based on the following goals, which are listed in order of priority:

1. To maintain the productive agricultural land base and economic viability of agriculture on the site;

2. To maintain, restore or enhance critical areas to the maximum extent practical in accordance with the site specific goals of the landowner;

3. To the maximum extent practical in accordance with the site specific goals of the landowner, maintain and enhance natural hydrologic systems on the site;

4. To use federal, state and local best management practices and best available science for farm management to achieve the goals of the farm management plan; and

5. To monitor the effectiveness of best management practices and implement additional practices through adaptive management to achieve the goals of the farm management plan.

E. The property owner or applicant may develop the farm management plan as part of a program offered or approved by King County. The plan shall include, but is not limited to, the following elements:

1. A site inventory identifying critical areas, structures, cleared and forested areas, and other significant features on the site;

2. Site-specific performance standards and best management practices to maintain, restore or enhance critical areas and their buffers and maintain and enhance native vegetation on the site including the best management practices for the installation and maintenance of farm field access drives and agricultural drainages;

3. A plan for future changes to any existing structures or for any changes to the landscape that involve clearing or grading;

4. A plan for implementation of performance standards and best management practices;

5. A plan for monitoring the effectiveness of measures taken to protect critical areas and their buffers and to modify the farm management plan if adverse impacts occur; and

6. Documentation of compliance with flood compensatory storage and flood conveyance in accordance with K.C.C. 21A.24.240.

F. A farm management plan is not effective until approved by the county. Before approval, the county may conduct a site inspection, which may be through a program offered or approved by King County, to verify that the plan is reasonably likely to accomplish the goals in subsection D. of this section.

G. Once approved, activities carried out in compliance with the approved farm management plan shall be deemed in compliance with this chapter. In the event of a potential code enforcement action, the department of development and environmental services shall first inform the department of natural resources and parks of the activity. Prior to taking code enforcement action, the department of development and environmental services shall consult with the department of natural resources and parks and the King Conservation District to determine whether the activity is consistent with the farm management plan. (Ord. 15051 § 138, 2004).

21A.24.055 Rural stewardship plans.

A. On a site zoned RA, the department may approve a modification of the minimum buffer widths for aquatic areas, wetlands and wildlife habitat conservation areas and maximum clearing restrictions through a rural stewardship plan in accordance with this section.

B. The property owner or applicant shall develop the rural stewardship plan as part of a rural stewardship program offered or approved by King County and has the option of incorporating a county-approved farm management or a county-approved forest stewardship plan.

C. In its evaluation of any proposed modification, the department shall consider the following factors:

1. The existing condition of the drainage basin or marine shoreline as designated on the Basin and Shoreline Conditions Map;

2. The existing condition of wetland and aquatic area buffers;

3. The existing condition of wetland functions based on the adopted Washington State Wetland Rating System for Western Washington, Washington state department of ecology publication number 04-06-025, published August 2004;

4. The location of the site in the drainage basin; and

5. The percentage of impervious surfaces and clearing on the site.

D. A rural stewardship plan does not modify the requirement for permits for activities covered by the rural stewardship plan.

E. Modifications of critical area buffers shall be based on the following prioritized goals:

1. To avoid impacts to critical areas to the maximum extent practical;

2. To avoid impacts to the higher quality wetland or aquatic area or the more protected fish or wildlife species, if there is a potential to affect more than one category of wetland or aquatic area or more than one species of native fish or wildlife;

3. To maintain or enhance the natural hydrologic systems on the site to the maximum extent practical;

4. To maintain, restore or enhance native vegetation;

5. To maintain, restore or enhance the function and value of critical areas or critical area buffers located on the site;

6. To minimize habitat fragmentation and enhance corridors between wetlands, riparian corridors, wildlife habitat conservation areas and other priority habitats;

7. To minimize the impacts of development over time by implementing best management practices and meeting performance standards during the life of the development; and

8. To monitor the effectiveness of the stewardship practices and implement additional practices through adaptive management to maintain, restore or enhance critical area functions when necessary.

F. A rural stewardship plan may include, but is not limited to, the following elements:

1. Critical areas designation under K.C.C. 21A.24.500;

2. Identification of structures, cleared and forested areas and other significant features on the site;

3. Location of wetlands and aquatic areas and their buffers, and wildlife habitat;

4. Site-specific best management practices;

5. Planned changes to any existing structures or for other changes to the site that involve clearing or grading;

6. A schedule for implementation of the elements of the rural stewardship plan; and

7. A plan for monitoring the effectiveness of measures approved under the rural stewardship plan and to modify if adverse impacts occur.

G. A rural stewardship plan may be developed as part of a program offered or approved by King County and shall include a site inspection by the county to verify that the plan is reasonably likely to accomplish the goals in subsection E. of this section to protect water quality, reduce flooding and erosion, maintain, restore or enhance the function and value of critical areas and their buffers and maintain or enhance native vegetation on the site of this section.

H. A property owner who completes a rural stewardship plan that is approved by the county may be eligible for tax benefits under the public benefit rating system in accordance with K.C.C. 20.36.100.

I. If a property owner withdraws from the rural stewardship plan, in addition to any applicable penalties under the public benefit rating system, the following apply:

1. Mitigation is required for any structures constructed in critical area buffers under the rural stewardship plan; and

2. The property owner shall apply for buffer averaging or an alteration exception, as appropriate, to permit any structure or use that has been established under the rural stewardship plan and that would not otherwise be permitted under this chapter.

J. A rural stewardship plan is not effective until approved by the county. Before approval, the county may conduct a site inspection, which may be through a program offered or approved by King County, to verify that the plan is reasonably likely to accomplish the goals in subsection E. of this section.

K. Once approved, activities carried out in compliance with the approved rural stewardship plan shall be deemed in compliance with this chapter. In the event of a potential code enforcement action, the department of development and environmental services shall first inform the department of natural resources and parks of the activity. Prior to taking code enforcement action, the department of development and environmental services shall consult with the department of natural resources and parks to determine whether the activity is consistent with the rural stewardship plan. (Ord. 15051 § 139, 2004).

21A.24.061 Public rules for rural stewardship and farm management plans.

A. The King County council recognizes that rural stewardship plans and farm management plans are key elements of this chapter that provide flexibility to rural area residents to establish and maintain a rural lifestyle that includes activities such as farming and forestry while maintaining and enhancing rural character and environmental quality.

B. The department of natural resources and parks and department of development and environmental services shall adopt public rules to implement K.C.C. 21A.24.045 and 21A.24.051 relating to rural stewardship plans and farm management plans, consistent with the provisions of this section. The rules shall not compromise the King Conservation District's mandate or standards for farm management planning.

C. County departments or approved agencies shall provide technical assistance and resources to landowners to assist them in preparing the plans. The technical assistance shall include, but is not limited to, web-based information, instructional manuals and classroom workshops. When possible, the assistance shall be provided at little or no cost to landowners. In addition, the department of natural resources and parks shall develop, in consultation as necessary with the department of development and environmental services and the King Conservation District, and make available to the public, model farm management, forest management and rural stewardship plans illustrating examples of plan application content, drawings and site plans, to assist landowners in their development of site-specific plans for their property.

D. The department of natural resources and parks is the primary county agency responsible for rural stewardship plans and farm management plans that are filed with the county under this chapter. The department of natural resources and parks shall consult with the department of development and environmental services in carrying out its responsibilities under this chapter relating to rural stewardship plans and farm management plans. The department of natural resources and parks, department of development and environmental services and the King Conservation District may enter into agreements to carry out the provisions of this chapter relating to rural stewardship plans and farm management plans.

E. Not later than March 1, 2005, the department of natural resources and parks and department of development and environmental services shall prepare and submit to the chair of the growth management and unincorporated areas committee, or its successor, a report summarizing the public rules adopted to implement the provisions of this chapter related to farm management plans and rural stewardship plans and how the rules implement the requirements of this section.

F. The department of natural resources and parks and department of development and environmental services shall monitor and evaluate the effectiveness of rural stewardship and farm management plans in meeting the goals and objectives of those plans established in this chapter. Beginning March 31, 2006, the departments shall present an annual report to the chair of the metropolitan King County council, providing an evaluation of the prior year's activity related to rural stewardship and farm management plans. (Ord. 15051 § 140, 2004).

21A.24.065 Basin and Shoreline Conditions Map.

A. The Basin and Shoreline Conditions Map, included in Attachment A to Ordinance 15051, is the basis for determining standards or modifications of standards related to aquatic areas, wetlands complexes and RA zone clearing limits.

B. Basins and marine shorelines are rated as "high," "medium," or "low" using the criteria listed in subsection C of this section and can be generally characterized as follows:

1. High condition ratings are generally reflective of areas with low development intensity (e.g., substantial forest cover, relatively few roads crossing aquatic areas and wetlands, low amounts of impervious surfaces, and low amounts armoring and structures along shorelines) and a significant biological value (e.g., the presence or high use by critical species or the presence of rare, endangered or highly sensitive habitats).

2. Medium condition ratings are generally reflective of areas with either high or moderate development intensity and moderate or low insignificant biological value.

3. Low condition ratings are generally reflective of areas with high development intensity (e.g., reduced forest cover, many roads crossing aquatic areas and wetlands, significant amounts of impervious surfaces, and extensive amount of armoring and structures along shorelines) and a low biological value (e.g., the little presence or low use by critical species or little or no presence of rare, endangered or highly sensitive habitats).

C. Ratings designated on the Basin and Shoreline Conditions Map shall be determined in accordance with the following criteria:

1. Basin conditions for riverine tributary systems are based on:

a. presence and amount of use for spawning and rearing and habitat for chinook salmon, bull trout, coho salmon, chum salmon and cutthroat trout;

b. total impervious surface area;

c. number of acres of mapped category I wetlands;

d. number of road crossings of aquatic areas;

e. surrounding land use intensity;

f. amount of forest cover;

g. presence of mapped wildlife habitat network; and

h. presence of mapped priority species nests or breeding habitat.

2. Conditions for marine shorelines are based on:

a. presence and amount of forage fish, such as surf smelt and sand lance and the extent of their spawning sites within the drift cell;

b. length and percentage of cell without eelgrass, with patchy eelgrass and with continuous eelgrass;

c. the amount and type of forest cover;

d. length and percentage of cell with low, moderate and high impervious surface;

e. presence and amount of large woody debris and drift logs;

f. length and percentage of cell armored and unstable slope armored

g. number of docks, piers, groins, jetties, breakwaters and boat ramps;

h. number of marsh areas present and length and percentage of cell within marsh habitat;

i. length and percentage of cell within important bird area; and

j. length and percentage of cell within marine reserve. (Ord. 15051 § 141, 2004).

21A.24.070 Alteration exception.

A. The director may approve alterations to critical areas, critical area buffers and critical area setbacks not otherwise allowed by this chapter as follows:

1. For linear alterations, the director may approve alterations to critical areas, critical area buffers and critical area setbacks only when all of the following criteria are met:

a. there is no feasible alternative to the development proposal with less adverse impact on the critical area;

b. the proposal minimizes the adverse impact on critical areas to the maximum extent practical;

c. the approval does not require the modification of a critical area development standard established by this chapter;

d. the development proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest;

e. the linear alteration:

(1) connects to or is an alteration to a public roadway, public trail, a utility corridor or utility facility or other public infrastructure owned or operated by a public utility; or

(2) is required to overcome limitations due to gravity; and

2. For nonlinear alterations the director may approve alterations to critical areas except wetlands, unless otherwise allowed under subsection A.2.h. of this section, aquatic areas and wildlife habitat conservation areas, and alterations to critical area buffers and critical area setbacks, when all of the following criteria are met:

a. there is no feasible alternative to the development proposal with less adverse impact on the critical area;

b. the alteration is the minimum necessary to accommodate the development proposal;

c. the approval does not require the modification of a critical area development standard established by this chapter, except as set forth in subsection A.2.i. of this section;

d. the development proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest;

e. for dwelling units, no more than three thousand square feet or ten percent of the site, whichever is greater, may be disturbed by structures or other land alteration including grading, utility installations and landscaping but not including the area used for an on-site sewage disposal system;

f. to the maximum extent possible, access is located to have the least adverse impact on the critical area and critical area buffer;

g. the critical area is not used as a salmonid spawning area;

h. the director may approve an alteration in a category II, III and IV wetland for development of a public school facility; and

i. the director may approve an alteration to the elevation or dry flood proofing standards in K.C.C. 21A.24.240.F.1. or 21A.24.240F.2. for nonresidential agricultural accessory buildings that equal or exceed a maximum assessed value of sixty-five thousand dollars if the development proposal meets the criteria in subsection A.2. of this section and the standards in K.C.C. 21A.24.240F.4. through 21A.24.240.G.

B. The director may approve alterations to critical areas, critical area buffers and critical area setbacks if the application of this chapter would deny all reasonable use of the property. The applicant may apply for a reasonable use exception pursuant to this subsection without first having applied for an alteration exception under this section if the requested reasonable use exception includes relief from development standards for which an alteration exception cannot be granted pursuant to the provisions of this section. The director shall determine that all of the following criteria are met:

1. There is no other reasonable use with less adverse impact on the critical area;

2. Development proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest;

3. Any authorized alteration to the critical area or critical area buffer is the minimum necessary to allow for reasonable use of the property; and

4. For dwelling units, no more than three thousand square feet or ten percent of the site, whichever is greater, may be disturbed by structures or other land alteration, including grading, utility installations and landscaping but not including the area used for an on-site sewage disposal system.

C. For the purpose of this section, "linear" alteration means infrastructure that supports development that is linear in nature and includes public and private roadways, public trails, private driveways, railroads, utility corridors and utility facilities.

D. Alteration exceptions approved under this section shall meet the mitigation requirements of this chapter.

E. An applicant for an alteration exception shall submit a critical area report, as required by K.C.C. 21A.24.110.

F. The hearing examiner shall provide to the clerk of the council a copy of the final decision of an appeal of the department's decision under this section within thirty days after the hearing examiner's decision. The clerk shall notify the council of the availability of the decision. (Ord. 16172 § 2, 2008: Ord. 15051 § 142, 2004: Ord. 13190 § 19, 1998: Ord. 12196 § 54, 1996: Ord. 11621 § 73, 1994: Ord. 10870 § 454, 1993).

21A.24.090 Disclosure by applicant. If a development proposal site contains or is within a critical area, the applicant shall submit an affidavit which declares whether:

A. The applicant has knowledge of any illegal alteration to any or all critical areas on the development proposal site; and

B. The applicant previously has been found in violation of this chapter, in accordance with K.C.C. Title 23. If the applicant previously has been found in violation, the applicant shall declare whether the violation has been corrected to the satisfaction of King County. (Ord. 15051 § 145, 2004: Ord. 10870 § 456, 1993).

21A.24.100 Critical area review.

A. Before any clearing, grading or site preparation, the department shall perform a critical area review for any development proposal permit application or other request for permission to alter a site to determine whether there is:

1. A critical area on the development proposal site;
2. An active breeding site of a protected species on the development proposal site; or
3. A critical area or active breeding site of a protected species that has been mapped, identified within three hundred fee of the applicant's property or that is visible from the boundaries of the site.

B. As part of the critical area review, the department shall review the critical area reports and determine whether:

1. There has been an accurate identification of all critical areas;
2. An alteration will occur to a critical area or a critical area buffer;
3. The development proposal is consistent with this chapter;
4. The sequence in K.C.C. 21A.24.125 has been followed to avoid impacts to critical areas and critical area buffers; and
5. Mitigation to compensate for adverse impacts to critical areas is required and whether the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the general public health, safety and welfare, consistent with the goals, purposes, objectives and requirements of this chapter.

C. If a development proposal does not involve any site disturbance, clearing, or grading and only requires a permit or approval under K.C.C. chapter 16.04 or 17.04, critical area review is not required, unless the development proposal is located within a:

1. Flood hazard area;
2. Critical aquifer recharge area; or
3. Landslide hazard area, seismic hazard area, or coal mine hazard area and the proposed development will cause additional loads on the foundation, such as by expanding the habitable square footage of the structure or by adding or changing structural features that change the load bearing characteristics of the structure. (Ord. 15051 § 146, 2004: Ord. 14449 § 9, 2002: Ord. 10870 § 457, 1993).

21A.24.110 Critical area report requirement.

A. An applicant for a development proposal that requires critical area review under K.C.C. 21A.24.100 shall submit a critical area report at a level determined by the department to adequately evaluate the proposal and all probable impacts.

B. The applicant may combine a critical area report with any studies required by other laws and regulations.

C. If the development proposal will affect only a part of the development proposal site, the department may limit the scope of the required critical area report to include only that part of the site that is affected by the development proposal. (Ord. 15051 § 147, 2004: Ord. 10870 § 458, 1993).

21A.24.125 Avoiding impacts to critical areas.

A. An applicant for a development proposal or alteration, shall apply the following sequential measures, which appear in order of priority, to avoid impacts to critical areas and critical area buffers:

1. Avoiding the impact or hazard by not taking a certain action;

2. Minimizing the impact or hazard by:

a. limiting the degree or magnitude of the action with appropriate technology; or

b. taking affirmative steps, such as project redesign, relocation or timing;

3. Rectifying the impact to critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer;

4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

5. Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal or alteration;

6. Compensating for the adverse impact by enhancing critical areas and their buffers or creating substitute critical areas and their buffers; and

7. Monitoring the impact, hazard or success of required mitigation and taking remedial action.

B. The specific mitigation requirements of this chapter for each critical area or requirements determined through the resource mitigation reserves program apply when compensation for adverse impacts is required by the sequence in subsection A. of this section. (Ord. 15051 § 149, 2004).

21A.24.130 Mitigation and monitoring.

A. If mitigation is required under this chapter to compensate for adverse impacts, unless otherwise provided, an applicant shall:

1. Mitigate adverse impacts to:

a. critical areas and their buffers; and

b. the development proposal as a result of the proposed alterations on or near the critical areas; and

2. Monitor the performance of any required mitigation.

B. The department shall not approve a development proposal until mitigation and monitoring plans are in place to mitigate for alterations to critical areas and buffers.

C. Whenever mitigation is required, an applicant shall submit a critical area report that includes:

1. An analysis of potential impacts;

2. A mitigation plan that meets the specific mitigation requirements in this chapter for each critical area impacted; and

3. A monitoring plan that includes:

a. a demonstration of compliance with this title;

b. a contingency plan in the event of a failure of mitigation or of unforeseen impacts if:

(1) the department determines that failure of the mitigation would result in a significant impact on the critical area or buffer; or

(2) the mitigation involves the creation of a wetland; and

c. a monitoring schedule that may extend throughout the impact of the activity or, for hazard areas, for as long as the hazard exists.

D. Mitigation shall not be implemented until after the department approves the mitigation and monitoring plan. The applicant shall notify the department when mitigation is installed and monitoring is commenced and shall provide King County with reasonable access to the mitigation for the purpose of inspections during any monitoring period.

E. If monitoring reveals a significant deviation from predicted impact or a failure of mitigation requirements, the applicant shall implement an approved contingency plan. The contingency plan constitutes new mitigation and is subject to all mitigation including a monitoring plan and financial guarantee requirements. (Ord. 15051 § 150, 2004: Ord. 10870 § 460, 1993).

21A.24.133 Off-site mitigation.

A. To the maximum extent practical, an applicant shall mitigate adverse impacts to a wetland, aquatic area, wildlife habitat conservation area or wildlife habitat network on or contiguous to the development site. The department may approve mitigation that is off the development site if an applicant demonstrates that:

1. It is not practical to mitigate on or contiguous to the development proposal site; and

2. The off-site mitigation will achieve equivalent or greater hydrological, water quality and wetland or aquatic area habitat functions.

B. When off-site mitigation is authorized, the department shall give priority to locations within the same drainage subbasin as the development proposal site that meet the following:

1. Mitigation banking sites and resource mitigation reserves as authorized by this chapter;

2. Private mitigation sites that are established in compliance with the requirements of this chapter and approved by the department; and

3. Public mitigation sites that have been ranked in a process that has been supported by ecological assessments, including wetland and aquatic areas established as priorities for mitigation in King County basin plans or other watershed plans.

C. The department may require documentation that the mitigation site has been permanently preserved from future development or alteration that would be inconsistent with the functions of the mitigation. The documentation may include, but is not limited to, a conservation easement or other agreement between the applicant and owner of the mitigation site. King County may enter into agreements or become a party to any easement or other agreement necessary to ensure that the site continues to exist in its mitigated condition.

D. The department shall maintain a list of sites available for use for off-site mitigation projects.

E. The department may develop a program to allow the payment of a fee in lieu of providing mitigation on a development site. The program should address:

1. When the payment of a fee is allowed considering the availability of a site in geographic proximity with comparable hydrologic and biological functions and potential for future habitat fragmentation and degradation; and

2. The use of the fees for mitigation on public or private sites that have been ranked according to ecological criteria through one or more programs that have included a public process. (Ord. 15051 § 151, 2004).

21A.24.137 Resource mitigation reserve. The department may approve mitigation to compensate for the adverse impacts of a development proposal to critical areas through the creation and approval of a resource mitigation reserve. The use of a resource mitigation reserve to compensate for unavoidable impacts to a critical area is not allowed in the agricultural production districts if the purpose is to compensate for development outside of the agricultural production districts. (Ord. 15051 § 152, 2004).

21A.24.140 Financial guarantees. Financial guarantees shall be required consistent with the provisions of Title 27A. (Ord. 12020 § 54, 1995: Ord. 10870 § 461, 1993).

21A.24.160 Critical area markers and signs.

A. Development proposals shall include permanent survey stakes delineating the boundary between adjoining property and critical area tracts, using iron or concrete markers as established by current survey standards.

B. The applicant shall identify the boundary between a critical area tract and contiguous land with permanent signs. The department may require signs and fences to delineate and protect critical areas and critical area buffers that are not in critical area tracts. (Ord. 15051 § 154, 2004: Ord. 10870 § 463, 1993).

21A.24.170 Notice of critical areas.

A. Except as otherwise provided in subsection of C. of this section, the owner of any property containing critical areas or buffers on which a development proposal is submitted or any property on which mitigation is established as a result of development shall file a notice approved by King County with the records, elections and licensing services division. The notice shall inform the public of:

1. The presence of critical areas or buffers or mitigation sites on the property;
2. The application of this chapter to the property; and
3. The possible existence of limitations on actions in or affecting the critical areas or buffers or the fact that mitigation sites may exist.

B. The applicant for a development proposal shall submit proof that the notice required by this section has been filed for public record before King County approves any development proposal for the property or, in the case of subdivisions, short subdivisions and binding site plans, at or before recording of the subdivision, short subdivision or binding site plan.

C. The notice required under subsection A. of this section is not required if:

1. The property is a public right-of-way or the site of a permanent public facility; or
2. The development proposal does not require sensitive area review under K.C.C. 21A.24.100.C. (Ord. 15051 § 155, 2004: Ord. 14449 § 10, 2002: Ord. 14187 § 3, 2001: Ord. 10870 § 464, 1993).

21A.24.180 Critical area tracts and designations on site plans.

A. The applicant shall use critical area tracts to delineate and protect those critical areas and buffers listed below in development proposals for subdivisions, short subdivisions or binding site plans and shall record the tracts on all documents of title of record for all affected lots:

1. All landslide hazard areas and buffers that are one acre or more in size;
2. All steep slope hazard areas and buffers that are one acre or more in size;
3. All wetlands and buffers; and
4. All aquatic areas and buffers.

B. Any required critical area tract shall be held in an undivided interest by each owner of a building lot within the development with this ownership interest passing with the ownership of the lot, or shall be held by an incorporated homeowner's association or other legal entity that ensures the ownership, maintenance and protection of the tract.

C. Site plans submitted as part of building permits, clearing and grading permits or other development permits shall include and delineate:

1. All flood hazard areas, as determined by King County in accordance with K.C.C. 21A.24.230;
2. Landslide, volcanic, coal mine and steep slope hazard areas;
3. Aquatic areas and wetlands;
4. Wildlife habitat conservation areas and the wildlifehabitat network;
5. Buffers; and
6. Building setbacks as required by K.C.C. 21A.24.200.

D. If only a part of the development site has been mapped, the part of the site that has not been mapped shall be clearly identified and labeled on the site plans. (Ord. 15051 § 156, 2004: Ord. 14449 § 11, 2002: Ord. 10870 § 465, 1993).

21A.24.200 Building setbacks. Unless otherwise provided, an applicant shall set buildings and other structures back a distance of fifteen feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following are allowed in the building setback area:

A. Landscaping;

B. Uncovered decks;

C. Building overhangs if the overhangs do not extend more than eighteen inches into the setback area;

D. Impervious ground surfaces, such as driveways and patios, but the improvements are required to meet any special drainage provisions specified in public rules adopted for the various critical areas;

E. Utility service connections as long as the excavation for installation avoids impacts to the buffer; and

F. Minor encroachments if adequate protection of the buffer will be maintained. (Ord. 15051 § 157, 2004: Ord. 10870 § 467, 1993).

21A.24.205 Coal mine hazard areas — classifications. Based upon a critical area report containing a coal mine hazard assessment prepared in accordance with this chapter, the department shall classify coal mine hazard areas as follows:

A. Declassified coal mine areas are those areas where the risk of catastrophic collapse is not significant and that the hazard assessment report has determined do not require special engineering or architectural recommendations to prevent significant risks of property damage. Declassified coal mine areas typically include, but are not limited to, areas underlain or directly affected by coal mines at depths of more than three hundred feet as measured from the surface;

B. Moderate coal mine hazard areas are those areas that pose significant risks of property damage that can be mitigated by implementing special engineering or architectural recommendations. Moderate coal mine hazard areas typically include, but are not limited to, areas underlain or directly affected by abandoned coal mine workings from a depth of zero, which is the surface of the land, to three hundred feet or with overburden-cover-to-seam thickness ratios of less than ten to one depending on the inclination of the seam; and

C. Severe coal mine hazard areas are those areas that pose a significant risk of catastrophic ground surface collapse. Severe coal mine hazard areas typically include, but are not limited to, areas characterized by unmitigated openings such as entries, portals, adits, mine shafts, air shafts, timber shafts, sinkholes, improperly filled sinkholes and other areas of past or significant probability for catastrophic ground surface collapse; or areas characterized by , overland surfaces underlain or directly affected by abandoned coal mine workings from a depth of zero, which is the surface of the land, to one hundred fifty feet. (Ord. 15051 § 158, 2004).

21A.24.210 Coal mine hazard areas — development standards and alterations. The following development standards apply to development proposals and alterations on sites containing coal mine hazard areas:

A. The applicant shall design alterations within coal mine hazard areas to:

1. Minimize the risk of structural damage in a moderate coal mine hazard area; and
2. Eliminate or minimize significant risk of personal injury in a severe coal mine hazard area;

B. Within declassified coal mine areas all alterations are allowed;

C. Within moderate coal mine hazard areas and coal mine by-product stockpiles, all alterations are allowed when the risk of structural damage is minimized; and

D. Within severe coal mine hazard areas the following alterations are allowed:

1. All grading, filling, stockpile removal, and reclamation activities undertaken in accordance with a coal mine hazard assessment report with the intent of eliminating or mitigating threats to human health, public safety, environmental restoration or protection of property if:
   a. signed and stamped plans have been prepared by a professional engineer;
   b. as-built drawings are prepared following reclamation activities; and
   c. the plans and as-built drawings are submitted to the department for inclusion with the coal mine hazard assessment report prepared for the property;
2. Private road construction when significant risk of personal injury is eliminated or minimized;
3. Buildings with less than four thousand square feet of floor area that contain no living quarters and that are not used as places of employment or public assembly when significant risk of personal injury is eliminated or minimized; and
4. Additional land use activities if consistent with recommendations contained within any mitigation plan required by a critical area report. (Ord. 15051 § 159, 2004: Ord. 13319 § 7, 1998: Ord. 11896 § 1, 1995: Ord. 10870 § 468, 1993).

21A.24.220 Erosion hazard areas — development standards and alterations. The following development standards apply to development proposals and alterations on sites containing erosion hazard areas:

A. Clearing in an erosion hazard area is allowed only from April 1 to October 1, except that:

1. Clearing of up to fifteen-thousand square feet within the erosion hazard area may occur at any time on a lot;

2. Clearing of noxious weeds may occur at any time; and

3. Forest practices regulated by the department are allowed at any time in accordance with a clearing and grading permit if the harvest is in conformance with chapter 76.09 RCW and Title 222 WAC;

B. All subdivisions, short subdivisions, binding site plans or urban planned developments on sites with erosion hazard areas shall retain existing vegetation in all erosion hazard areas until building permits are approved for development on individual lots. The department may approve clearing of vegetation on lots if:

1. The clearing is a necessary part of a large scale grading plan; and

2. It is not feasible to perform the grading on an individual lot basis; and

C. If the department determines that erosion from a development site poses a significant risk of damage to downstream wetlands or aquatic areas, based either on the size of the project, the proximity to the receiving water or the sensitivity of the receiving water, the applicant shall provide regular monitoring of surface water discharge from the site. If the project does not meet water quality standards established by law or public rules, the county may suspend further development work on the site until such standards are met. (Ord. 15051 § 160, 2004: Ord. 10870 § 469, 1993).

21A.24.230 Flood hazard areas — components.

A. A flood hazard area consists of the following components:

1. Floodplain;
2. Zero-rise flood fringe;
3. Zero-rise floodway;
4. FEMA floodway; and
5. Channel migration zones.

B. The department shall delineate a flood hazard area after reviewing base flood elevations and flood hazard data for a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "one-hundred-year flood." The department shall determine the base flood for existing conditions. If a basin plan or hydrologic study including projected flows under future developed conditions has been completed and approved by King County, the department shall use these future flow projections. Many flood hazard areas are mapped by FEMA in a scientific and engineering report entitled "The Flood Insurance Study for King County and Incorporated Areas." When there are multiple sources of flood hazard data for flood plain boundaries, regulatory floodway boundaries, base flood elevations, or flood cross sections, the department may determine which data most accurately classifies and delineates the flood hazard area. The department may utilize the following sources of flood hazard data for floodplain boundaries, regulatory floodway boundaries, base flood elevations or cross sections when determining a flood hazard area:

1. Flood Insurance Rate Maps;
2. Flood Insurance Studies;
3. Preliminary Flood Insurance Rate Maps;
4. Preliminary Flood Insurance Studies;
5. Draft flood boundary work maps and associated technical reports;
6. Critical area reports prepared in accordance with FEMA standards contained in 44 C.F.R. Part 65 and consistent with the King County Surface Water Design Manual provisions for floodplain analysis;
7. Letter of map amendments;
8. Letter of map revisions;
9. Channel migration zone maps and studies;

10. Historical flood hazard information; and

11. Wind and wave data provided by the United States Army Corps of Engineers.

C. A number of channel migration zones are mapped by the county for portions of river systems. These channel migration zones and the criteria and process used to designate and classify channel migration zones are specified by public rule adopted by the department. An applicant for a development proposal may submit a critical area report to the department to determine channel migration zone boundaries or classify channel migration hazard areas on a specific property if there is an apparent discrepancy between the site-specific conditions or data and the adopted channel migration zone maps. (Ord. 15051 § 161, 2004: Ord. 10870 § 470, 1993).

21A.24.240 Zero-rise flood fringe — development standards and alterations. The following development standards apply to development proposals and alterations on sites within the zero-rise flood fringe:

A. Development proposals and alterations shall not reduce the effective base flood storage volume of the floodplain. A development proposal shall provide compensatory storage if grading or other activity displaces any effective flood storage volume. Compensatory storage shall:

1. Provide equivalent volume at equivalent elevations to that being displaced. For this purpose, equivalent elevations means having similar relationship to ordinary high water and to the best available ten-year, fifty-year and one-hundred-year water surface profiles;

2. Hydraulically connect to the source of flooding;

3. Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins on September 30 for that year; and

4. Occur on the site. The director may approve equivalent compensatory storage off the site if legal arrangements, acceptable to the department, are made to assure that the effective compensatory storage volume will be preserved over time. The director may approve of off site compensatory storage through a compensatory storage bank managed by the department of natural resources and parks;

B. A structural engineer shall design and certify all elevated buildings and submit the design to the department;

C. A civil engineer shall prepare a base flood depth and base flood velocity analysis and submit the analysis to the department. A base flood depth and base flood velocity analysis is not required for agricultural structures that will not be used for human habitation. Development proposals and alterations are not allowed if the base flood depth exceeds three feet and the base flood velocity exceeds three feet per second, except that the director may approve development proposals and alterations in areas where the base flood depth exceeds three feet and the base flood velocity exceeds three feet per second for the following projects;

1. Agricultural accessory structures;

2. Roads and bridges;

3. Utilities;

4. Surface water flow control or surface water conveyance systems;

5. Public park structures; and

6. Flood hazard mitigation projects, such as, but not limited to construction, repair or replacement of flood protection facilities or for building elevations or relocations;

D. Subdivisions, short subdivisions, urban planned developments and binding site plans shall meet the following requirements:

1. New building lots shall include five thousand square feet or more of buildable land outside the zero-rise floodway;

2. All utilities and facilities such as sewer, gas, electrical and water systems are consistent with subsections E., F. and I. of this section;

3. A civil engineer shall prepare detailed base flood elevations in accordance with FEMA guidelines for all new lots;

4. A development proposal shall provide adequate drainage in accordance with the King County Surface Water Design Manual to reduce exposure to flood damage; and

5. The face of the recorded subdivision, short subdivision, urban planned development or binding site plan shall include the following for all lots:

a. building setback areas restricting structures to designated buildable areas:

b. base flood data and sources and flood hazard notes including, but not limited to, base flood elevation, required flood protection elevations, the boundaries of the floodplain and the zero-rise floodway, if determined, and channel migration zone boundaries, if determined; and

c. include the following notice:

"Lots and structures located within flood hazard areas may be inaccessible by emergency vehicles during flood events. Residents and property owners should take appropriate advance precautions.";

E. New residential structures and substantial improvements of existing residential structures shall meet the following standards:

1. Elevate the lowest floor, including basement, to the flood protection elevation;

2. Do not fully enclose portions of the structure that are below the lowest floor area;

3. Design and construct the areas and rooms below the lowest floor to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters as follows:

a. provide a minimum of two openings on each of two opposite side walls in the direction of flow, with each of those walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding;

b. design and construct the bottom of all openings so they are no higher than one foot above grade; and

c. screens, louvers or other coverings or devices are allowed over the opening if they allow the unrestricted entry and exit of floodwaters;

4. Use materials and methods that are resistant to and minimize flood damage; and

5. Elevate above or dry-proof all electrical, heating, ventilation, plumbing, air conditioning equipment and other utilities that service the structure, such as duct-work to the flood protection elevation;

F. New nonresidential structures and substantial improvements of existing nonresidential structures shall meet the following standards:

1. Elevate the lowest floor to the flood protection elevation;

2. Dry flood-proof the structure to the flood protection elevation to meet the following standards:

a. the applicant shall provide certification by a civil or structural engineer that the dry flood-proofing methods are adequate to withstand the flood-depths, pressures, velocities, impacts, uplift forces and other factors associated with the base flood. After construction, the engineer shall certify that the permitted work conforms to the approved plans and specifications; and

b. approved building permits for dry flood-proofed nonresidential structures shall contain a statement notifying applicants that flood insurance premiums are based upon rates for structures that are one foot below the elevation to which the building is dry-floodproofed;

3. Nonresidential agricultural accessory buildings that do not equal or exceed a maximum assessed value of sixty-five thousand dollars may be designed and oriented to allow the free passage of floodwaters through the building in a manner affording minimum flood damage provided they meet the standards in subsection F.4. through F.6. of this section. Nonresidential agricultural accessory buildings that equal or exceed sixty-five thousand dollars may apply for an alteration exception pursuant to K.C.C. 21A.24.070. Nonresidential agricultural accessory buildings that do not meet the elevation standard in subsection F. 1. of this section or the dry flood-proofing standard in subsection F.2. of this section will be assessed at the flood insurance rate based on the risk to which the building is exposed;

4. Use materials and methods that are resistant to and minimize flood damage;

5. Design and construct the areas and rooms below the lowest floor to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters as follows:

a. provide a minimum of two openings on each of two opposite side walls in the direction of flow, with each of those walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding;

b. design the bottom of all openings is no higher than one foot above grade; and

c. screens, louvers or other coverings or devices are allowed if they do not restrict entry and exit of floodwaters; and

6. Dry flood proof all electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities to, or elevated above, the flood protection elevation;

G. Anchor all new construction and substantially improved structures to prevent flotation, collapse or lateral movement of the structure. The department shall approve the method used to anchor the new construction;

H. Newly sited manufactured homes and substantial improvements of existing manufactured homes shall meet the following standards:

1. Manufactured homes shall meet all the standards in this section for residential structures and the following standards:

a. anchor all manufactured homes; and

b. install manufactured homes using methods and practices that minimize flood damage;

2. All manufactured homes within a new mobile home park or expansion of an existing mobile home park must meet the requirements for flood hazard protection for residential structures; and

3. Only manufactured homes are allowed in a new or existing mobile home park located in a flood hazard area;

I. Public and private utilities shall meet the following standards:

1. Dry flood-proof new and replacement utilities including, but not limited to, sewage treatment and storage facilities, to, or elevate above, the flood protection elevation;

2. Locate new on-site sewage disposal systems outside the floodplain. When there is insufficient area outside the floodplain, new on-site sewage disposal systems are allowed only in the zero-rise flood fringe. Locate on-site sewage disposal systems in the zero-rise flood fringe to avoid:

a. impairment to the system during flooding;

b. contamination from the system during flooding;

3. Design all new and replacement water supply systems to minimize or eliminate infiltration of floodwaters into the system;

4. Above-ground utility transmission lines, except for electric transmission lines, are allowed only for the transport of nonhazardous substances; and

5. Bury underground utility transmission lines transporting hazardous substances at a minimum depth of four feet below the maximum depth of scour for the base flood, as predicted by a civil engineer, and achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated;

J. Critical facilities are allowed within the zero-rise flood fringe only when a feasible alternative site is not available and the following standards are met:

1. Elevate the lowest floor to the five-hundred year floodplain elevation or three or more feet above the base flood elevation, whichever is higher;

2. Dry flood-proof and seal structures to ensure that hazardous substances are not displaced by or released into floodwaters; and

3. Elevate access routes to or above the base flood elevation from the critical facility to the nearest maintained public street or roadway;

K. New construction or expansion of existing farm pads is allowed only as follows:

1. A farm pad is allowed only if there is no other suitable holding area on the site outside the floodplain;

2. Construct the farm pad to the standards in an approved farm management plan prepared in accordance with K.C.C. 21A.24.051 and K.C.C. chapter 21A.30. The farm management plan shall demonstrate compliance with the following:

a. flood storage compensation consistent with subsection A. of this section;

b. siting and sizing that do not increase base flood elevations consistent with K.C.C. 21A.24.250.B.; and

c. siting that is located in the area least subject to risk from floodwaters; and

L. New construction or expansion of existing livestock manure storage facilities is only allowed as follows:

1. The livestock manure storage facility is only allowed if there is not a feasible alternative area on the site outside the floodplain;

2. Construct the livestock manure storage facility to the standards in an approved farm management plan prepared in accordance with K.C.C. 21A.24.051 and K.C.C. chapter 21A.30. The farm management plan shall demonstrate compliance with the following:

a. flood storage compensation consistent with subsection A. of this section;

b. siting and sizing that do not increase base flood elevations consistent with K.C.C. 21A.24.250.B. and 21A.24.260.D;

c. dry flood-proofing to the flood protection elevation; and

d. siting that is located in the area least subject to risk from floodwaters. (Ord. 16172 § 4, 2008: Ord. 15051 § 162, 2004: Ord. 11621 § 76, 1994: Ord. 10870 § 471, 1993).

21A.24.250 Zero-rise floodway — development standards and alterations. The following development standards apply to development proposals and alterations on sites within the zero-rise floodway:

A. The development standards that apply to the zero-rise flood fringe also apply to the zero-rise floodway. The more restrictive requirements shall apply where there is a conflict;

B. A development proposal shall not increase the base flood elevation except as follow:

1. Revisions to the Flood Insurance Rate Map are approved by FEMA, in accordance with 44 CFR 70, to incorporate the increase in the base flood elevation; and

2. Appropriate legal documents are prepared and recorded in which all property owners affected by the increased flood elevations consent to the impacts on their property;

C. If post and piling construction techniques are used, the following are presumed to produce no increase in the base flood elevation and a critical areas report is not required to establish this fact:

1. New residential structures outside the FEMA floodway on lots in existence before November 27, 1990, that contain less than five thousand square feet of buildable land outside the zero-rise floodway if the total building footprint of all existing and proposed structures on the lot does not exceed two-thousand square feet;

2. Substantial improvements of existing residential structures in the zero-rise floodway, but outside the FEMA floodway, if the footprint is not increased; or

3. Substantial improvements of existing residential structures that meet the standards for new residential structures in K.C.C. 21A.24.240.E;

D. When post or piling construction techniques are not used, a critical areas report is required in accordance with K.C.C. 21A.24.110 demonstrating that the proposal will not increase the base flood elevation;

E. During the flood season from September 30 to May 1 the following are not allowed to be located in the zero-rise floodway;

1. All temporary seasonal shelters, such as tents and recreational vehicles; and

2. Staging or stockpiling of equipment, materials or substances that the director determines may be hazardous to the public health, safety or welfare;

F. New residential structures and substantial improvements to existing residential structures or any structure accessory to a residential use shall meet the following standards:

1. Locate the structures outside the FEMA floodway;

2. Locate the structures only on lots in existence before November 27, 1990, that contain less than five thousand square feet of buildable land outside the zero-rise floodway; and

3. To the maximum exten practical, locate the structures the farthest distance from the channel, unless the applicant can demonstrate that an alternative location is less subject to risk;

G. Public and private utilities are only allowed if:

1. The department determines that a feasible alternative site is not available;

2. A waiver is granted by the Seattle-King County department of public health for new on-site sewage disposal facilities;

3. The utilities are dry flood-proofed to or elevated above the flood protection elevation;

4. Above-ground utility transmission lines, except for electrical transmission lines, are only allowed for the transport of nonhazardous substances; and

5. Underground utility transmission lines transporting hazardous substances are buried at a minimum depth of four feet below the maximum dept of scour for the base flood, as predicted by a civil engineer, and achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated;

H. Critical facilities, except for those listed in subsection I. of this section are not allowed within the zero-rise floodway; and

I. Structures and installations that are dependent upon the zero-rise floodway are allowed in the zero-rise floodway if the development proposal is approved by all agencies with jurisdiction and meets the development standards for the zero-rize floodway. These structures and installations may include, but are not limited to:

1. Dams or diversions for water supply, flood control, hydroelectric production, irrigation or fisheries enhancement;

2. Flood damage reduction facilities, such as levees, revetments and pumping stations;

3. Stream bank stabilization structures only if a feasible alternative does not exist for protecting structures, public roadways, flood protection facilities or sole access routes. Bank stabilization projects must meet the standards of King County's Guidelines for Bank Stabilization Projects (King County Surface Water Management 1993) and use bioengineering techniques to the maximum extent practical. An applicant may use alternative methods to the guidelines if the applicant demonstrates that the alternative methods provide equivalent or better structural stabilization, ecological and hydrological functions and salmonid habitat;

4. Surface water conveyance facilities;

5. Boat launches and related recreation structures;

6. Bridge piers and abutments; and

7. Approved aquatic area or wetland restoration projects including, but not limited to, fisheries enhancement projects. (Ord. 15051 § 163, 2004: Ord. 10870 § 472, 1993).

21A.24.260 FEMA floodway — development standards and alterations.

A. The development standards that apply to the zero-rise floodway also apply to the FEMA floodway. The more restrictive standards apply where there is a conflict.

B. A development proposal shall not increase the base flood elevation. A civil engineer shall certify, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that any proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

C. New residential or nonresidential structures are prohibited within the mapped FEMA floodway, except for farm pads and nonresidential agricultural accessory buildings within an agricultural production district that meet applicable compensatory storage and conveyance standards. Until March 31, 2010, the size of a new nonresidential agriculture accessory building is limited to a footprint of five thousand square feet. A residential structure cannot be constructed on fill placed within the mapped FEMA floodway.

D. Manure storage facilities are prohibited in the FEMA floodway.

E. If the footprint of the existing residential structure is not increased, substantial improvements of existing residential structures in the FEMA floodway, meeting the requirements of WAC 173-158-070, as amended, are presumed to not increase the base flood elevation and do not require a critical areas report to establish this fact.

F. Maintenance, repair, replacement or improvement of an existing residential structure located within the agricultural production district on property that is zoned agriculture (A) is allowed in the FEMA floodway if the structure meets the standards for residential structures and utilities in K.C.C. 21A.24.240 and also meets the following requirements:

1. The existing residential structure was legally established;

2. The viability of the farm is dependent upon a residential structure within close proximity to other agricultural structures; and

3. Replacing an existing residential structure within the FEMA floodway is only allowed if:

a. there is not sufficient buildable area on the site outside the FEMA floodway for the replacement;

b. the replacement residential structure is not located in an area that increases the flood hazard in water depth, velocity or erosion;

c. the building footprint of the existing residential structure is not increased; and

d. the existing structure, including the foundation, is completely removed within ninety days of receiving a certificate of occupancy, or temporary certificate of occupancy, whichever occurs first, for the replacement structure.

G. Maintenance, repair or replacement of a substantially damaged existing residential structure, other than a residential structure located within the agricultural production district on property that is zoned agricultural (A), is allowed in the FEMA floodway if the structure meets the standards for existing residential structures and utilities in K.C.C. 21A.24.240 and also meets the following requirements:

1. The Washington state Department of Ecology has assessed the flood characteristics of the site and determined:

a. base flood depths will not exceed three feet;

b. base flood velocities will not exceed three feet per second;

c. there is no evidence of flood-related erosion, as determined by location of the project site in relationship to mapped channel migration zones or, if the site is not mapped, evidence of overflow channels and bank erosion; and

d. a flood warning system or emergency plan is in operation;

2. The Washington state Department of Ecology has prepared a report of findings and recommendations to the department that determines the repair or replacement will not result in an increased risk of harm to life based on the characteristics of the site;

3. The department has reviewed the Washington state Department of Ecology report and concurs that the development proposal is consistent with the findings and recommendations in the report;

4. The development proposal is consistent with the findings and recommendations of the Washington state Department of Ecology report;

5. The existing residential structure was legally established; and

6. Replacing an existing residential structure within the FEMA floodway is only allowed if:

a. there is not sufficient buildable area on the site outside the FEMA floodway;

b. the replacement structure is a residential structure built as a substitute for a previously existing residential structure of equivalent use and size; and

c. the existing residential structure, including the foundation, is removed within ninety days of receiving a certificate of occupancy, or temporary certificate of occupancy, whichever occurs first, for the replacement structure.

H. Maintenance or repair of a structure, as defined in WAC 173-158-030, that is identified as a historic resource, as defined in K.C.C. 21A.06.597, is allowed in the FEMA floodway if the structure and utilities meet the standards of K.C.C. 21A.24.240 for residential structures or nonresidential structures, as appropriate. (Ord. 16172 § 5, 2008: Ord. 15051 § 164, 2004: Ord. 10870 § 473, 1993).

21A.24.270 Flood hazard areas — certification by engineer or surveyor.

A. For all new structures or substantial improvements in a flood hazard area, the applicant shall provide a FEMA elevation certificate completed by a civil engineer or land surveyor licensed by the state of Washington documenting:

1. The actual as-built elevation of the lowest floor, including basement; and

2. The actual as-built elevation to which the structure is dry flood-proofed, if applicable.

B. The applicant shall submit a FEMA elevation certificate before the issuance of a certificate of occupancy or temporary certificate of occupancy, whichever occurs first. For unoccupied structures, the applicant shall submit the FEMA elevation certificate before the issuance of the final letter of completion or temporary letter of completion, whichever occurs first.

C. The engineer or land surveyor shall indicate if the structure has a basement.

D. The department shall maintain the certifications required by this section for public inspection and for certification under the National Flood Insurance Program. (Ord. 15051 § 165, 2004: Ord. 10870 § 474, 1993).

21A.24.275 Channel migration zones — development standards and alterations. The following development standards apply to development proposal and alterations on sites within channel migration zones that have been mapped and adopted by public rule:

A. The development standards that apply to the aquatic area buffers in K.C.C. 21A.24.365 also apply to the severe channel migration zone and the portion of the moderate channel migration zone that is within the aquatic area buffer. The more-restrictive standards apply where there is a conflict;

B. Only the alterations identified in K.C.C. 21A.24.045 are allowed within a severe channel migration hazard area;

C. The following standards apply to development proposals and alterations within the moderate channel migration hazard area:

1. Maintenance, repair or expansion of any use or structure is allowed if the existing structure's footprint is not expanded towards any source of channel migration hazard, unless the applicant can demonstrate that the location is the least subject to risk;

2. New primary dwelling units, accessory dwelling units or accessory living quarters, and required infrastructure, are allowed if:

a. the structure is located on a separate lot in existence on or before February 16, 1995;

b. a feasible alternative location outside of the channel migration hazard area is not available on-site; and

c. to the maximum extent practical, the structure and supporting infrastructure is located the farthest distance from any source of channel migration hazard, unless the applicant can demonstrate that an alternative location is:

(1) the least subject to risk; or

(2) within the outer third of the moderate channel migration hazard area as measured perpendicular to the channel;

3. New accessory structures are allowed if:

a. a feasible alternative location is not available on-site; and

b. to the maximum extent practical, the structure is located the farthest distance from the migrating channel;

4. The subdivision of property is allowed within the portion of a moderate channel migration hazard area located outside an aquatic area buffer if:

a. All lots contain five-thousand square feet or more of buildable land outside of the moderate channel migration hazard area;

b. Access to all lots does not cross the moderate channel migration hazard area; and

c. All infrastructure is located outside the moderate channel migration hazard area except that an on-site septic system is allowed in the moderate channel migration hazard area if:

(1) a feasible alternative location is not available on-site; and

(2) to the maximum extent practical, the septic system is located the farthest distance from the migrating channel. (Ord. 15051 § 166, 2004: Ord. 11621 § 75, 1994).

21A.24.280 Landslide hazard areas — development standards and alterations. The following development standards apply to development proposals and alterations on sites containing landslide hazard areas:

A. Unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C. 21A.24.045 are allowed within a landslide hazard area with a slope of forty percent or greater;

B. A buffer is required from all edges of the landslide hazard area. To eliminate or minimize the risk of property damage or injury resulting from landslides caused in whole or part by the development, the department shall determine the size of the buffer based upon a critical area report prepared by a geotechnical engineer or geologist. If a critical area report is not submitted to the department, the minimum buffer is fifty feet. If the landslide hazard area has a vertical rise of more than two-hundred feet, the department may increase the minimum building setback in K. C. C. 21A.24.200 to one-hundred feet;

C. Unless otherwise provided in K.C.C. 21A.24.045 or as a necessary part of an allowed alteration, removal of any vegetation from a landslide hazard area or buffer is prohibited;

D. All alterations shall minimize disturbance to the landslide hazard area, slope and vegetation unless necessary for slope stabilization; and

E. Alterations in a landslide hazard area located on a slope less than forty percent are allowed if:

1. The proposed alteration will not decrease slope stability on contiguous properties; and

2. The risk of property damage or injury resulting from landsliding is eliminated or minimized. (Ord. 15051 § 167, 2004: Ord. 12822 § 9, 1997: Ord. 10870 § 475, 1993).

21A.24.290 Seismic hazard areas — development standards and alterations. The following development standards apply to development proposals and alterations on sites containing seismic hazard areas:

A. The department may approve alterations to seismic hazard areas only if:

1. The evaluation of site-specific subsurface conditions shows that the proposed development site is not located in a seismic hazard area; or

2. The applicant implements appropriate engineering design based on the best available engineering and geological practices that either eliminates or minimizes the risk of structural damage or injury resulting from seismically induced settlement or soil liquefaction; and

B. The department may waive or reduce engineering study and design requirements for alterations in seismic hazard areas for:

1. Mobile homes;

2. Additions or alterations that do not increase occupancy or significantly affect the risk of structural damage or injury; and

3. Buildings with less than two-thousand-five hundreds square feet of floor area or roof area, whichever is greater, and that are not dwelling units or used as places of employment or public assembly. (Ord. 15051 § 168, 2004: Ord. 10870 § 476, 1993).

21A.24.300 Volcanic hazard areas — development standards and alterations. The following development standards apply to development proposal and alterations on sites containing volcanic hazard areas:

A. Within volcanic hazard areas located along the White river upstream from Mud Mountain dam:

1. Critical facilities, apartments, townhouses or commercial structures are not allowed;

2. All new lots created by subdivision, short subdivision or binding site plan shall designate building areas and building setbacks outside of the volcanic hazard area; and

3. The notice of critical areas required under this chapter is required for new single detached dwellings on existing lots;

B. Within volcanic hazard areas located along the White river downstream from Mud Mountain dam and the Green and Duwamish rivers, the department shall evaluate development proposals for critical facilities for risk of inundation or flooding resulting from mudflows originating on Mount Rainier. The applicant shall design critical facilities to withstand, without damage, the effects of mudflows equal in magnitude to the prehistoric Electron mudflow; and

C. This section does not apply until King County has completed the required modeling and mapping of volcanic hazard areas. (Ord. 15051 § 169, 2004: Ord. 10870 § 477, 1993).

21A.24.310 Steep slope hazard areas — development standards and alterations. The following development standards apply to development proposals and alterations on sites containing steep slope hazard areas:

A. Except as provided in subsection D. of this section, unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C. 21A.24.045 are allowed within a steep slope hazard area;

B. A buffer is required from all edges of the steep slope hazard area. To eliminate or minimize the risk of property damage or injury resulting from slope instability, landsliding or erosion caused in whole or part by the development, the department shall determine the size of the buffer based upon a critical area report prepared by a geotechnical engineer or geologist. If a critical area report is not submitted to the department, the minimum buffer is fifty feet. For building permits for single detached dwelling units only, the department may waive the special study requirement and authorize buffer reductions if the department determines that the reduction will adequately protect the proposed development and the critical area; and

C. Unless otherwise provided in K.C.C. 21A.24.045 or as a necessary part of an allowed alteration, removal of any vegetation from a steep slope hazard area or buffer is prohibited;

D. All alterations are allowed in the following circumstance:

1. Slopes which are forty percent or steeper with a vertical elevation change of up to twenty feet if no adverse impact will result from the exemption based on King County's review of and concurrence with a soils report prepared by a geologist or geotechnical engineer; and

2. The approved regrading of any slope which was created through previous legal grading activities. Any slope which remains forty percent or steeper following site development shall be subject to all requirements for steep slopes. (Ord. 15051 § 170, 2004: Ord. 13190 § 21, 1998: Ord. 11621 § 77, 1994: Ord. 11273 § 5, 1994: Ord. 10870 § 478, 1993).

21A.24.311 Critical aquifer recharge areas — map adopted. The map entitled King County Critical Aquifer Recharge Areas, included in Attachment B to Ordinance 15051, is hereby adopted as the designation of critical aquifer recharge areas in King County in accordance with RCW 36.70A.170. The council may adopt by ordinance revisions to add or remove critical aquifer recharge areas based on additional information about areas with susceptibility to ground water contamination or on changes to sole source aquifers or wellhead protection areas as identified in wellhead protection programs. (Ord. 15051 § 172, 2004: Ord. 11481 § 2, 1994. Formerly K.C.C. 20.70.020).

21A.24.312 Critical aquifer recharge areas — reclassification or declassification. Upon application supported by a critical areas report that includes a hydrogeologic site evaluation, the department, in consultation with the department of natural resources and parks, may determine that an area that is classified as a critical aquifer recharge area on the map adopted and amended by public rule under K.C.C. 21A.24.311:

A. Does not meet the criteria for a critical aquifer recharge area and declassify that area; or

B. Has the wrong critical aquifer recharge area classification and determine the correct classification. (Ord. 15051 § 173, 2004).

21A.24.313 Critical aquifer recharge areas — categories. Critical aquifer recharge areas are categorized as follows:

A. Category I critical aquifer recharge areas include those mapped areas that King County has determined are highly susceptible to groundwater contamination and that are located within a sole source aquifer or a wellhead protection area;

B. Category II critical aquifer recharge areas include those mapped areas that King County has determined:

1. Have a medium susceptibility to ground water contamination and are located in a sole source aquifer or a wellhead protection area; or

2. Are highly susceptible to groundwater contamination and are not located in a sole source aquifer or wellhead protection area; and

C. Category III critical aquifer recharge areas include those mapped areas that King County has determined have low susceptibility to groundwater contamination and are located over an aquifer underlying an island that is surrounded by saltwater. (Ord. 15051 § 174, 2004).

21A.24.314 Critical aquifer recharege areas — King County Code provisions adopted — Washington state underground tank provisions implemented. To protect critical aquifer recharge areas, in accordance with chapter 36.70A RCW, the following provisions of the King County Code are determined to protect critical aquifer recharge areas: K.C.C. chapters 8.12, 9.04, 16.82, 21A.06, 21A.16, 21A.22 and 21A.24 and K.C.C. 17.04.010. For the purposes of RCW 90.76.040, King County declares critical aquifer recharge areas to be environmentally sensitive areas. (Ord. 15051 § 176, 2004: Ord. 11481 §§ 3, 5, 1994. Formerly K.C.C. 20.70.030).

21A.24.315 Board of Health regulations adopted. The following Titles of the Code of King County Board of Health are hereby adopted in accordance with RCW 36.70A.060 to protect critical aquifer recharge areas: Title 10 "King County Solid Waste Regulations", Title 12 "King County Public Water System Rules and Regulations", and Title 13 "On-Site Sewage Disposal Systems." (Ord. 15051 § 177, 2004: Ord. 11481 § 4, 1994. Formerly K.C.C. 20.70.040).

21A.24.316 Critical aquifer recharge areas — development standards. The following development standards apply to development proposals and alterations on sites containing critical aquifer recharge areas:

A. Except as otherwise provided in subsection H. of this section, the following new development proposals and alterations are not allowed on a site located in a category I critical aquifer recharge area:

1. Transmission pipelines carrying petroleum or petroleum products;

2. Sand and gravel, and hard rock mining unless:

a. the site has mineral zoning as of January 1, 2005; or

b. mining is a permitted use on the site and the critical aquifer recharge area was mapped after the date a complete application for mineral extraction on the site was filed with the department;

3. Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;

4. Disposal of radioactive wastes, as defined in chapter 43.200 RCW;

5. Hydrocarbon extraction;

6. Commercial wood treatment facilities on permeable surfaces;

7. Underground storage tanks, including tanks that are exempt from the requirements of chapter 173 WAC, with hazardous substances, as defined in chapter 70.105 RCW, that do not comply with standards of chapter 173-360 WAC and K.C.C. Title 17;

8. Above-ground storage tanks for hazardous substances, as defined in chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;

9. Golf courses;

10. Cemeteries;

11. Wrecking yards;

12. Landfills for hazardous waste, municipal solid waste or special waste, as defined in K.C.C. chapter 10.04; and

13. On lots smaller than one acre, an on-site septic system, unless:

a. the system is approved by the Washington state Department of Health and the system either uses an up flow media filter system or a proprietary packed-bed filter system or is designed to achieve approximately eighty percent total nitrogen removal for typical domestic wastewater; or

b. the Seattle-King County department of public health determines that the systems required under subsection A.13.a. of this section will not function on the site.

B. Except as otherwise provided in subsection H. of this section, the following new development proposals and alterations are not allowed on a site located in a category II critical aquifer recharge area:

1. Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;

2. Disposal of radioactive wastes, as defined in chapter 43.200 RCW;

3. Hydrocarbon extraction;

4. Commercial wood treatment facilities located on permeable surfaces;

5.a. Except for a category II critical aquifer recharge area located over an aquifer underlying an island that is surrounded by saltwater, underground storage tanks with hazardous substances, as defined in chapter 70.105 RCW, that do not meet the requirements of chapter 173-360 WAC and K.C.C. Title 17; and

b. For a category II critical aquifer recharge area located over an aquifer underlying an island that is surrounded by saltwater, underground storage tanks, including underground storage tanks exempt from the requirements of chapter 173-360 WAC, with hazardous substances, as defined in chapter 70.105 RCW, that do not comply with the standards in chapter 173-360 WAC and K.C.C. Title 17;

6. Above-ground storage tanks for hazardous substances, as defined in chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;

7. Wrecking yards;

8. Landfills for hazardous waste, municipal solid waste, or special waste, as defined in K.C.C. chapter 10.04; and

9. On lots smaller than one acre, an on-site septic systems, unless:

a. the system is approved by the Washington state Department of Health and the system either uses an up flow media filter system or a proprietary packed-bed filter system or is designed to achieve approximately eighty percent total nitrogen removal for typical domestic wastewater; or

b. the Seattle-King County department of public health determines that the systems required under subsection B.9.a. of this section will not function on the site.

C. Except as otherwise provided in subsection H. of this section, the following new development proposals and alterations are not allowed on a site located in a category III critical aquifer recharge area:

1. Disposal of radioactive wastes, as defined in chapter 43.200 RCW;

2. Hydrocarbon extraction;

3. Commercial wood treatment facilities located on permeable surfaces;

4. Underground storage tanks, including tanks exempt from the requirements of chapter 173-360 WAC, with hazardous substances, as defined in chapter 70.105 RCW, that do not comply with the requirements of chapter 173-360 WAC and K.C.C. Title 17;

5. Above ground storage tanks for hazardous substances, as defined in chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;

6. Wrecking yards; and

7. Landfills for hazardous waste, municipal solid waste, or special waste, as defined in K.C.C. chapter 10.04.

D. The following standards apply to development proposals and alterations that are substantial improvements on a site located in a critical aquifer recharge area:

1. The owner of an underground storage tank, including a tank that is exempt from the requirements of chapter 173 WAC, in a category I or III critical aquifer recharge area or a category II critical aquifer recharge area located over an aquifer underlying an island that is surrounded by saltwater shall either bring the tank into compliance with the standards of chapter 173 WAC and K.C.C. Title 17 or properly decommission or remove the tank; and

2. The owner of an underground storage tank in a category II critical aquifer recharge area not located on located over an aquifer underlying an island that is surrounded by saltwater shall bring the tank into compliance with the standards of chapter 173-360 WAC and K.C.C. Title 17 or shall properly decommission or remove the tank.

E. In any critical aquifer recharge area, the property owner shall properly decommission an abandoned well.

F. On a site located in a critical aquifer recharge area within the urban growth area, a development proposal for new residential development, including, but not limited to, a subdivision, short subdivision, or dwelling unit, shall incorporate best management practices included in the King County Surface Water Design Manual into the site design in order to infiltrate stormwater runoff to the maximum extent practical.

G. On an island surround by saltwater, the owner of a new well located within two hundred feet of the ordinary high water mark of the marine shoreline and within a critical aquifer recharge area shall test the well for chloride levels using testing protocols approved by the Washington state Department of Health. The owner shall report the results of the test to Seattle-King County department of public health and to the department of natural resources and parks. If the test results indicate saltwater intrusion is likely to occur, the department of natural resources and parks, in consultation with Seattle-King County department of public health, shall recommend appropriate measures to prevent saltwater intrusion.

H. On a site greater than twenty acres, the department may approve a development proposal otherwise prohibited by subsections A., B. and C. of this section if the applicant demonstrates through a critical areas report that the development proposal is located outside the critical aquifer recharge area and that the development proposal will not cause a significant adverse environmental impact to the critical aquifer recharge area.

I. The provisions relating to underground storage tanks in subsections A. through D. of this section apply only when the proposed regulation of underground storage tanks has been submitted to and approved by the Washington state department of ecology, in accordance with 90.76.040 RCW and WAC 173-360-530. (Ord. 15051 § 179, 2004).

21A.24.318 Wetlands — categories.

A. Wetlands are classified into category I, category II, category III and category IV based on the adopted Washington State Wetland Rating System for Western Washington, Washington state department of ecology publication number 04-06-025, published August 2004.

B. Wetland rating categories shall not recognize illegal modifications. (Ord. 15051 § 183, 2004).

21A.24.325 Wetlands — buffers. Except as otherwise provided in this section, buffers shall be provided from the wetland edge as follows:

A. In the Urban Growth Area, buffers for wetlands shall be established in accordance with the following standards:

1. The standard buffer widths of the following table shall apply unless modified in accordance with subsection A.2, A.3, C. or D. of this section:

WETLAND CATEGORY AND CHARACTERISTICS	**BUFFER**
Category I	
Natural Heritage Wetlands	215 feet
Bog	215 feet
Estuarine	175 feet
Coastal Lagoon	175 feet
Habitat score from 29 to 36 points	225 feet
Habitat score from 20 to 28 points	150 feet
Category I wetlands not meeting any of the criteria below	125 feet
Category II	
Estuarine	135 feet
Habitat score from 29 to 36 points	200 feet
Habitat score from 20 to 28 points	125 feet
Category II wetlands not meeting any of the criteria below	100 feet
Category III	
Habitat score from 20 to 28 points	125 feet
Category III wetlands not meeting any of the criteria below	75 feet
Category IV	50 feet

2. If a Category I or II wetland with habitat score greater than twenty points is located within three hundred feet of a priority habitat area as defined by the Washington state Department of Fish and Wildlife, the buffer established by subsection A.1. of this section shall be increased by fifty feet unless:

a. the applicant provides relatively undisturbed vegetated corridor at least one hundred feet wide between the wetland and all priority habitat areas located within three hundred feet of the wetland. The corridor shall be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent; and

b. the applicable mitigation measures in subsection A.3.b. of this section are provided; and

3. Buffers calculated in accordance with subsection A.1. and A.2. of this scetion shall be reduced as follows:

a. Buffers for all categories of wetlands shall be reduced by twenty-five feet if the applicant implements all applicable mitigation measures identified in subsection A.3.b. of this section, or if the applicant proposes alternate mitigation to reduce the impacts of the development and the department determines the alternative provides equivalent mitigation.

b. The following mitigation measures may be used by an applicant to obtain a reduced buffer width under subsection A.1. of this section:

Disturbance	**Measures to minimize impacts**	**Activities that may cause the disturbance**
Lights	Direct lights away from wetland	Parking lots, warehouses, manufacturing, high density residential
Noise	Place activity that generates noise away from the wetland.	manufacturing, high density residential
Toxic runoff	Route all new untreated runoff away from wetland, or Covenants limiting use of pesticides within 150 ft of wetland, or Implement integrated pest management program	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping
Change in water regime	Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces	Any impermeable surface, lawns, tilling
Pets and Human disturbance	Privacy fencing or landscaping to delineate buffer edge and to discourage disturbance of wildlife by humans and pets	Residential areas
Dust	BMP's for dust	Tilled fields
Degraded buffer condition	Nonnative plants to be removed and replaced with native vegetation per an approved landscaping plan to be bonded and monitored for a three year period after completion to assure at least 80% survival of plantings	All activities potentially requiring buffers

B. For a wetland located outside the Urban Growth Area:

1. The buffers shown on the following table apply unless modified in accordance with subsections C. and D. of this section:

WETLAND CATEGORY AND CHARACTERISTICS	INTENSITY OF IMPACT OF ADJACENT LAND USE		
	HIGH IMPACT	MODERATE IMPACT	LOW IMPACT
Category I			
Category I wetlands not meeting any of the criteria below	100 feet	75 feet	50 feet
Natural Heritage Wetlands	250 feet	190 feet	125 feet
Bog	250 feet	190 feet	125 feet
Estuarine	200 feet	150 feet	100 feet
Coastal Lagoon	200 feet	150 feet	100 feet
Habitat score from 29 to 36 points	300 feet	225 feet	150 feet
Habitat score from 20 to 28 points	150 feet	110 feet	75 feet
Category II			
Category II wetlands not meeting any of the criteria below	100 feet	75 feet	50 feet
Estuarine	150 feet	110 feet	75 feet
Interdunal	150 feet	110 feet	75 feet
Habitat score from 29 to 36 points	300 feet	225 feet	150 feet
Habitat score from 20 to 28 points	150 feet	110 feet	75 feet
Category III			
Category III wetlands not meeting any of the criteria below	80 feet	60 feet	40 feet
Habitat score from 20 to 28 points	150 feet	110 feet	75 feet
Category IV	50 feet	40 feet	25 feet

2. For purposes of this subsection B., unless the director determines a lesser level of impact is appropriate based on information provided by the applicant, the intensity of impact of the adjacent land use is determined as follows:

a. high impact includes:

(1) sites zoned commercial or industrial;

(2) commercial or industrial use on a site regardless of the zoning designation;

(3) nonresidential use on a site zoned for residential use;

(4) active recreation use on a site regardless of zoning;

b. moderate impact includes:

(1) residential uses on sites zoned rural residential without an approved rural stewardship plan;

(2) residential use on a site zoned agriculture or forestry; or

(3) agricultural uses without an approved farm management plan; and

c. low impact includes:

(1) forestry use on a site regardless of zoning designation;

(2) residential uses on sites zoned rural residential with an approved rural stewardship plan;

(3) passive recreation uses, such as trails, nature viewing areas, fishing and camping areas, and other similar uses that do not require permanent structures, on a site regardless of zoning; or

(4) agricultural uses carried out in accordance with an approved farm management plan.

C. The department may approve a modification of the minimum buffer width required by this section by averaging the buffer width if:

1. The department determines that:

a. the ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging; or

b. averaging includes the corridors of a wetland complex; and

2. The resulting buffer meets the following standards:

a. the total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;

b. the additional buffer is contiguous with the standard buffer; and

c. if the buffer width averaging allows a structure or landscaped area to intrude into the area that was buffer area before averaging, the resulting landscaped area shall extend no more than fifteen feet from the edge of the structure's footprint toward the reduced buffer.

D. Wetland buffer widths shall also be subject to modifications under the following special circumstances:

1. For wetlands containing documented habitat for endangered, threatened or species of local importance, the following shall apply:

a. the department shall establish the appropriate buffer, based on a habitat assessment, to ensure that the buffer provides adequate protection for the sensitive species; and

b. the department may apply the buffer increase rules in subsection A.2. of this section, the buffer reduction rules in subsection A.3. of this section, and the buffer averaging rules in subsection C. of this section;

2. For a wetland buffer that includes a steep slope hazard area or landslide hazard area, the buffer width is the greater of either the buffer width required by the wetland's category in this section or twenty-five feet beyond the top of the hazard area; and

3. For a wetland complex located outside the Urban Growth Area established by the King County Comprehensive Plan or located within the Urban Growth Area in a basin designated as "high" on the Basin and Shoreline Conditions Map, which is included as Attachment A to this ordinance, the buffer width is determined as follows:

a. the buffer width for each individual wetland in the complex is the same width as the buffer width required for the category of wetland;

b. if the buffer of a wetland within the complex does not touch or overlap with at least one other wetland buffer in the complex, a corridor is required from the buffer of that wetland to one other wetland buffer in the complex considering the following factors:

(1) the corridor is designed to support maintaining viable wildlife species that are commonly recognized to exclusively or partially use wetlands and wetland buffers during a critical life cycle stage, such as breeding, rearing, or feeding;

(2) the corridor minimizes fragmentation of the wetlands;

(3) higher category wetlands are connected through corridors before lower category wetlands; and

(4) the corridor width is a least twenty-five percent of the length of the corridor, but no less than twenty-five feet in width; and

(5) shorter corridors are preferred over longer corridors;

c. wetlands in a complex that are connected by an aquatic area that flows between the wetlands are not required to be connected through a corridor;

d. the department may exclude a wetland from the wetland complex if the applicant demonstrates that the wetland is unlikely to provide habitat for wildlife species that are commonly recognized to exclusively or partially use wetlands and wetland buffers during a critical life cycle stage, such as breeding, rearing or feeding; and

e. the alterations allowed in a wetland buffer in K.C.C. 21A.24.045 are allowed in corridors subject to the same conditions and requirements as wetland buffers as long as the alteration is designed so as not to disrupt wildlife movement through the corridor; and

4. Where a legally established roadway transects a wetland buffer, the department may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the roadway sought to be reduced:

a. does not provide additional protection of the proposed development or the wetland; and

b. provides insignificant biological, geological or hydrological buffer functions relating to the other portion of the buffer adjacent to the wetland."

E. Wetlands created through voluntary enhancement or restoration projects are not subject to the buffers established in subsections A. and B. of this section. (Ord. 15051 § 185, 2004).

21A.24.335 Wetlands — development standards and alterations. The following development standards apply to development proposals and alterations on sites containing wetlands or their buffers:

A. Unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C. 21A.24.045 are allowed in wetlands and wetland buffers;

B. The applicant shall not introduce any plant or wildlife that is not indigenous to the Puget Sound lowland into any wetland or wetland buffer unless authorized by a state or federal permit or approval;

C. A category IV wetland less than two-thousand-five-hundred square feet that is not part of a wetland complex may be altered by relocating its functions into a new wetland on the site in accordance with an approved mitigation plan; and

D. Alterations to category I wetlands containing bogs or fens are limited to K.C.C. 21A.24.045 D.20. and D.52. (Ord. 15051 § 187, 2004).

21A.24.340 Wetlands — specific mitigation requirements. In addition to the requirements in K.C.C. 21A.24.125 and 21A.24.130, the following applies to mitication to compensate for the adverse impacts associated with an alteration to a wetland or wetland buffer:

A. Mitigation measures must achieve equivalent or greater wetland functions, including, but not limited to:

1. Habitat complexity, connectivity and other biological functions; and

2. Seasonal hydrological dynamics, as provided in the King County Surface Water Design Manual;

B. The following ratios of area of mitigation to area of alteration apply to mitigation measures for permanent alterations:

1. For alterations to a wetland buffer, a ratio of one to one; and

2. For alterations to a wetland:

Category and type of wetland	Wetland reestablishment or creation	Wetland rehabilitation	1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E)	Wetland enhancement only
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
Category II estuarine	Case-by-case	4:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case
All other Category II	3:1	8:1	1:1 R/C and 4:1 E	12:1
Category I forested	6:1	12:1	1:1 R/C and 10:1 E	Case-by-case
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 E	Case-by-case
Category I natural heritage site	Not allowed	6:1 rehabilitation of a natural heritage site	Case-by-case	Case-by-case
Category I coastal lagoon	Not allowed	6:1 rehabilitation of a coastal lagoon	Case-by-case	Case-by-case
Category I bog	Not allowed	6:1 rehabilitation of a bog	Case-by-case	Case-by-case
Category I estuarine	Case-by-case	6:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case

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C. The following ratios of area of mitigation to area of alteration apply to mitigation measures for temporary alterations where wetlands will not be impacted by permanent fill material:

Wetland category	Permanent conversion of forested and shrub wetlands into emergent wetlands			Mitigation for temporal loss of forested and shrub wetlands when the impacted wetlands will be revegetated to forest or shrub communities		
	Enhancement	Rehabilitation	Creation or restoration	Enhancement	Rehabilitation	Creation or restoration
Category I	6:1	4.5:1	3:1	3:1	2:1	1.5:1
Category II	3:1	2:1	1.5:1	1.5:1	1:1	.75:1
Category III	2:1	1.5:1	1:1	1:1	.75:1	.5:1
Category IV	1.5:1	1:1	.75:1	Not applicable	Not applicable	Not applicable

D. The department may increase the mitigation ratios provided in subsections B. and C. of this section under the following circumstances:

1. The department determines there is uncertainty as to the probable success of the proposed restoration or creation;

2. A significant period of time will elapse between the impact caused by the development proposal and the establishment of wetland functions at the mitigation site;

3. The proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

4. The alteration causing the impact was an unauthorized impact.

E. The department may decrease the mitigation ratios provided in subsections B. and C. of this section under the following circumstances:

1. The applicant demonstrates by documentation submitted by a qualified wetland specialist that the proposed mitigation actions have a very high likelihood of success based on hydrologic data and prior experience;

2. The applicant demonstrates by documentation by a qualified wetland specialist that the proposed actions for compensation will provide functions and values that are significantly greater than the wetland being impacted;

3. The applicant demonstrates that the proposed actions for mitigation have been conducted in advance of the impact caused by the development proposal and that the actions are successful; or

4. In wetlands where several wetland hydrogeomorphic classes, including, but not limited to depressional, slope, riverine and flow through, are found within one delineated boundary, the department may decrease the ratios if:

a. impacts to the wetland are all within an area that has a different hydrogeomorphic class from the one used to establish the category;

b. the category of the area with a different class is lower than that of the entire wetland; and

c. the applicant provides adequate hydrologic and geomorphic data to establish that the boundary between the hydrogeomorphic classes lies outside of the footprint of the impacts.

F. For temporary alterations to a wetland or its buffer that are predominately woody vegetation, the department may require mitigation in addition to restoration of the altered wetland or buffer;

G. Mitigation of an alteration to a buffer of a wetland that occurs along an aquatic area lake shoreline in accordance with an allowed alteration under this chapter shall include, but is not limited to, on-site revegetation, maintenance and other restoration of the buffer or setback area to the maximum extent practical; and

H. The department may consider two or more contiguous sites under common ownership and located in the same drainage subbasin, as one site for the purpose of mitigation ratios. (Ord. 15051 § 188, 2004: Ord. 14045 § 48, 2001: Ord. 13190 § 23, 1998: Ord. 11621 § 79, 1994: Ord. 10870 § 481, 1993).

21A.24.342 Wetlands — agreement to modify mitigation ratios.

A. The department may enter into an agreement with an applicant to establish mitigation ratios to compensate for the adverse impacts to wetlands of the applicant's development proposals that differ from the ratios required by K.C.C. 21A.24.340.B. The agreement shall require that the applicant:

1. Demonstrate with scientifically-valid data that the program implemented by the applicant has achieved long-term success in reducing the risk of failure and temporal loss of function of the applicant's wetland mitigation projects; and

2. Implement a scientifically rigorous mitigation, monitoring and adaptive management program that includes the following elements:

a. a mitigation planning process that requires mitigation plans to be prepared and signed by a qualified wetland specialist. The mitigation planning process shall use the guidelines contained in Washington State Department of Ecology - U.S. Army Corps of Engineers Publication 04-06-013b "Guidance on Wetland Mitigation in Washington State" or an alternative approach acceptable to the department;

b. construction oversight by a qualified wetland specialist;

c. postconstruction monitoring and reporting by experienced and qualified personnel using scientifically rigorous and accepted methodologies to assess whether the mitigation has been installed and whether it meets the approved goals, objectives and performance standards identified in the mitigation plan;

d. ongoing mitigation site maintenance to facilitate the achievement of the approved goals, objectives and performance standards identified in the mitigation plan. Maintenance includes, but not limited to, the removal and control of nonnative vegetation, replacement of dead or dying planted vegetation and trash and debris removal;

e. financing or funding guarantees for the duration of the mitigation and monitoring program. At a minimum, funding guarantees must be in place until mitigation activities have met the established performance standards and have been approved by the department; and

f. an adaptive management program that requires the evaluation and adjustment of remedial actions contained within the contingency plan developed as part of the mitigation planning process.

B. The mitigation ratios established by the agreement authorized by this section shall be based on data prepared by the applicant regarding the effectiveness of past and ongoing mitigation projects implemented and monitored by the applicant. In establishing the mitigation ratios, the department shall consider:

1. The applicant's demonstrated success in meeting mitigation performance standards for the different types of mitigation, such as re-establishment, creation, rehabilitation, and enhancement; and

2. The hydrogeomorphic classification, such as slope, riverine, depressional and tidal fringe, of the wetland.

C. The applicant may request coordinated review of the agreement with the Washington state Department of Ecology and the United States Army Corps of Engineers. (Ord. 15051 § 189, 2004).

21A.24.345 Specific mitigation requirements — wetland mitigation banking. The department may approve mitigation in advance of unavoidable adverse impacts to wetlands caused by the development activities through an approved wetland mitigation bank. Wetland mitigation banking is not allowed in the agricultural production districts if the purpose is to compensate for filling wetlands for development outside of the agricultural production districts. (Ord. 15051 § 190, 2004: Ord. 14045 § 49, 2001: Ord. 11621 § 72, 1994).

21A.24.355 Aquatic areas — water types.

A. Aquatic areas are categorized or "typed" as follows:

1. Type S waters include all aquatic areas inventoried as "shorelines of the state" under King County's Shoreline Master Program, K.C.C. Title 25, in accordance with chapter 90.58 RCW, including segments of streams where the mean annual flow is more than twenty cubic feet per second, marine shorelines and lakes twenty acres in size or greater;

2. Type F waters include all segments of aquatic areas that are not type S waters and that contain fish or fish habitat, including waters diverted for use by a federal, state or tribal fish hatchery from the point of diversion for one-thousand-five-hundred feet or the entire tributary if the tributary is highly significant for protection of downstream water quality;

3. Type N waters include all segments of aquatic areas that are not type S or F waters and that are physically connected to type S or F waters by an above-ground channel system, stream or wetland; and

4. Type O waters include all segments of aquatic areas that are not type S, F or N waters and that are not physically connected to type S, F or N waters by an above-ground channel system, stream or wetland.

B. For the purposes of the water types in subsection A. of this section, an above-ground channel system is considered to be present if the one-hundred year floodplains of both the contributing and receiving waters are connected.

C. The department may determine that an area upstream of a legal human-made barrier is not fish habitat considering the following factors:

1. The human-made barrier is located beneath public infrastructure that is unlikely to be replaced and it is not feasible to remove the barrier without removing the public infrastructure;

2. The human-made barrier is in the Urban Growth Area established by the King County Comprehensive Plan and is located beneath one or more dwelling units and it is not feasible to remove the barrier without removing the dwelling unit;

3. The human-made barrier is located in a subbasin that is not designated "high" on the Basin and Shoreline Conditions Map which is included as Attachment A to this ordinance; or

4. The human-made barrier is not identified for removal by a public agency or in an adopted watershed plan. (Ord. 15051 § 192, 2004).

21A.24.358 Aquatic areas — buffers.

A. Aquatic area buffers shall be measured as follows:

1. From the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified;

2. If the aquatic area is located within a mapped severe channel migration area, the aquatic area buffer width shall be the greater of the aquatic area buffer width as measured consistent with subsection A.1. of this section or the outer edge of the severe channel migration area; or

3. If the aquatic area buffer includes a steep slope hazard area or landslide hazard area, the aquatic area buffer width is the greater of either the aquatic area buffer in this section or twenty-five feet beyond the top of the hazard area.

B. Within the Urban Growth Area, aquatic area buffers shall be as follows:

1. A type S or F aquatic area buffer is one-hundred-fifteen-feet;

2. A type S or F aquatic area buffer in a basin or shoreline designated as "high" on the Basin and Shoreline Conditions Map is one-hundred-sixty-five-feet;

3. A type N aquatic area buffer is sixty-five-feet; and

4. A type O aquatic area buffer is twenty-five-feet.

C. Outside the Urban Growth Area, aquatic area buffers shall be as follows:

1. A type S or F aquatic area buffer is one-hundred-sixty-five-feet;

2. A type N aquatic area buffer is sixty-five-feet; and

3. A type O aquatic area buffer is twenty-five-feet.

D. Within the Bear Creek drainage basin a type N aquatic area buffer in a designated regionally significant resource area is one-hundred-feet.

E. The department may approve a modification of buffer widths if:

1. The department determines that through buffer averaging the ecological structure and function of the resulting buffer is equivalent to or greater than the structure and function before averaging and meets the following standards:

a. The total area of the buffer is not reduced;

b. The buffer area is contiguous; and

c. Averaging does not result in the reduction of the minimum buffer for the buffer area waterward of the top of the associated steep slopes or for a severe channel migration hazard area;

2. The applicant demonstrates that the buffer cannot provide certain functions because of soils, geology or topography, provided that the department shall establish buffers which protect the remaining ecological functions that the buffer can provide;

3. The site is zoned RA and is subject to an approved rural stewardship plan. In modifying the buffers, the department shall consider factors such as, the basin and shoreline condition, the location of the site within the basin and shoreline, the buffer condition and the amount of clearing;

4. A legally established roadway transects an aquatic area buffer, the roadway edge closest to aquatic area shall be the extent of the buffer, if the part of the buffer on the other side of the roadway provides insignificant biological or hydrological function in relation to the portion of the buffer adjacent to the aquatic area; and

5. The aquatic area is created as a result of enhancement or restoration projects that are not mitigation for a development proposal or alteration. (Ord. 15051 § 193, 2004).

21A.24.365 Aquatic areas — development standards and alterations. The following development standards apply to development proposals and alterations on sites containing aquatic areas or their buffers:

A. Unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C. 21A.24.045 are allowed in aquatic areas and aquatic area buffers;

B. Grading for allowed alterations in aquatic area buffers is only allowed from May 1 to October 1. This period may be modified when the department determines it is necessary along marine shorelines to protect critical forage fish and salmonid migration or as provided in K.C.C. 16.82.095;

C. The moisture-holding capacity of the topsoil layer on all areas of the site not covered by impervious surfaces should be maintained by:

1. Minimizing soil compaction, or

2. Reestablishing natural soil structure and the capacity to infiltrate;

D. New structures within an aquatic area buffer should be sited to avoid the creation of future hazard trees and to minimize the impact on groundwater movement; and

E. To the maximum extent practical:

1. The soil duff layer should not be disturbed, but if disturbed, should be redistributed to other areas of the project site where feasible;

2. A spatial connection should be provided between vegetation within and outside the aquatic area buffer to prevent creation of wind throw hazards; and

3. Hazard trees should be retained in aquatic area buffers and either topped or pushed over toward the aquatic area. (Ord. 15051 § 195, 2004).

21A.24.380 Aquatic areas — specific mitigation requirements. In addition the requirements in K.C.C. 21A.24.130, 21A.24.125 and 21A.24.133, the following applies to mitigation to compensate for the adverse impacts associated with an alteration to an aquatic area or aquatic area buffer:

A. Mitigation measures must achieve equivalent or greater aquatic area functions including, but not limited to:

1. Habitat complexity, connectivity and other biological functions;
2. Seasonal hydrological dynamics, water storage capacity and water quality; and
3. Geomorphic and habitat processes and functions;

B. To the maximum extent practical, permanent alterations that require restoration or enhancement of the altered aquatic area, aquatic area buffer or another aquatic area or aquatic area buffer must consider the following design factors, as applicable to the function being mitigated:

1. The natural channel or shoreline reach dimensions including its depth, width, length and gradient;
2. The horizontal alignment and sinuosity;
3. The channel bed, sea bed or lake bottom with identical or similar substrate and similar erosion and sediment transport dynamics;
4. Bank and buffer configuration and erosion and sedimentation rates; and
5. Similar vegetation species diversity, size and densities in the channel, sea bed or lake bottom and on the riparian bank or buffer;

C. Mitigation to compensate for adverse impacts shall meet the following standards:

1. Not upstream of a barrier to fish passage;
2. Is equal or greater in biological function; and
3. To the maximum extent practical is located on the site of the alteration or within one-half mile of the site and in the same aquatic area reach at a 1:1 ratio of area of mitigation to area of alteration; or
4. Is located in the same aquatic area drainage subbasin or marine shoreline and attains the following ratios of area of functional mitigation to area of alteration:
   a. a 3:1 ratio for a type S or F aquatic area; and
   b. a 2:1 ratio for a type N or O aquatic area;

D. For purposes of subsection C. of this section, a mitigation measure is in the same aquatic area reach if the length of aquatic area shoreline meets the following criteria:

1. Similar geomorphic conditions including slope, soil, aspect and substrate;
2. Similar processes including erosion and transport of sediment and woody debris;
3. Equivalent or better biological conditions including invertebrates, fish, wildlife and vegetation; and
4. Equivalent or better biological functions including mating, reproduction, rearing, migration and refuge; or
5. For tributary streams, a distance of no more than one-half mile;

E. The department may reduce the mitigation ratios in subsection C. of this section to 2:1 ratio for a type S or F aquatic area and 1.5:1 ratio for a type N or O aquatic area if the applicant provides a scientifically rigorous mitigation monitoring program that includes the following elements:

1. Monitoring methods that ensure that the mitigation meets the approved performance standards identified by the department;
2. Financing or funding guarantees for the duration of the monitoring program; and
3. Experienced, qualified staff to perform the monitoring;

F. For rectifying an illegal alteration to any type of aquatic area or its buffer, mitigation measures must meet the following standards:

1. Located on the site of the illegal alteration at a 1:1 ratio of area of mitigation to area of alteration; and
2. To the maximum extent practical, replicates the natural prealteration configuration at its natural prealteration location including the factors in subsection B. of this section; and

G. The department may modify the requirements in this section if the applicant demonstrates that, with respect to each aquatic area function, greater functions can be obtained in the affected hydrologic unit that the department may determine to be the drainage subbasin through alternative mitigation measures. (Ord. 15051 § 197, 2004: Ord. 10870 § 485, 1993).

21A.24.382 Wildlife habitat conservation areas — development standards.

The following development standards apply to development proposals and alterations on sites containing wildlife habitat conservation areas:

A. Unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C. 21A.24.045 are allowed within a wildlife habitat conservation area;

B. For a bald eagle:

1. The wildlife habitat conservation area is an area with a four-hundred-foot radius from an active nest;

2. Between March 15 and April 30, alterations are not allowed within eight hundred feet of the nest; and

2. Between January 1 and August 31, land clearing machinery, such as bulldozers, graders or other heavy equipment, may not be operated within eight hundred feet of the nest;

C. For a great blue heron:

1. The wildlife habitat conservation area is an area with an eight-hundred-twenty-foot radius from the rookery. The department may increase the radius up to an additional one-hundred sixty-four feet if the department determines that the population of the rookery is declining; and

2. Between January 1 and July 31, clearing or grading are not allowed within nine-hundred-twenty-four feet of the rookery;

D. For a marbled murrelet, the wildlife habitat conservation area is an area with a one-half-mile radius around an active nest;

E. For a northern goshawk, the wildlife habitat conservation area is an area with a one-thousand-five-hundred-foot radius around an active nest located outside of the urban growth area;

F. For an osprey:

1. The wildlife habitat conservation area is an area with a two-hundred-thirty-foot radius around an active nest; and

2. Between April 1 and September 30, alterations are not allowed within six-hundred-sixty feet of the nest;

G. For a peregrine falcon:

1. The wildlife habitat conservation area is an area extending for a distance of one-thousand feet of an eyrie on a cliff face, the area immediately above the eyrie on the rim of the cliff, and the area immediately below the cliff;

2. Between March 1 and June 30, land-clearing activities that result in loud noises, such as from blasting, chainsaws or heavy machinery, are not allowed within one-half mile of the eyrie; and

3. New power lines may not be constructed within one-thousand feet of the eyrie;

H. For a spotted owl, the wildlife habitat conservation area is an area with a three-thousand-seven-hundred-foot radius from an active nest;

I. For a Townsend's big-eared bat:

1. Between June 1 and October 1, the wildlife habitat conservation area is an area with a four-hundred-fifty-foot radius from the entrance to a cave or mine, located outside of the urban area, with an active nursery colony

2. Between November 1 and March 31, the wildlife habitat conservation area is an area with a four-hundred-fifty-foot radius around the entrance to a cave or mine located outside the urban growth area serving as a winter hibernacula;

3. Between March 1 and November 30, a building, bridge, tunnel, or other structure used solely for day or night roosting may not be altered or destroyed;

4. Between May 1 and September 15, the entrance into a cave or mine that is protected because of bat presence is protected from human entry; and

5. A gate across the entrance to a cave or mine that is protected because of bat presence must be designed to allow bats to enter and exit the cave or mine;

J. For a Vaux's swift:

1. The wildlife habitat conservation area is an area with a three-hundred-foot radius around an active nest located outside of the urban growth areas;

2. Between April 1 and October 31, clearing, grading, or outdoor construction is not allowed within four hundred feet of an active or potential nest tree. The applicant may use a species survey to demonstrate that the potential nest tree does not contain an active nest;

K. For a red-tailed hawk:

1. The wildlife habitat conservation area is an area with a radius of three-hundred twenty-five feet from an active nest located outside of the urban growth area; and

2. Between March 1 and July 31, clearing and grading is not allowed within six hundred sixty feet of an active nest located outside of the urban growth area;

L. The department shall require protection of an active breeding site of any species not listed in subsections B. through K. of this section whose habitat is identified as requiring protection in the King County Comprehensive Plan. If the Washington state Department of Fish and Wildlife has adopted management recommendations for a species covered by this subsection, the department shall follow those management recommendations. If management recommendations have not been adopted, the department shall base protection decisions on best available science; and

M. In the area designated rural in the King County Comprehensive Plan, the department shall require an applicant to protect the active breeding site of any species whose habitat the king County Comprehensive Plan directs that the county should protect. The applicant shall protect the breeding site from destruction or other direct disturbance while it is occupied. If the Washington state Department of Fish and Wildlife has adopted management recommendations for a species covered by this subsection, the department shall follow those management recommendations. If management recommendations have not been adopted, the department shall base protection decisions on best available science. (Ord. 15051 § 198, 2004).

21A.24.383 Wildlife habitat conservation areas — modification. Upon request of the applicant and based upon a site-specific critical areas report that includes, but is not limited to, an evaluation of the tolerance of the animals occupying the nest or rookery to the existing level of development in the vicinity of the nest or rookery, the department may approve a reduction of the wildlife habitat conservation area for the following species:

A. Bald eagle;
B. Goshawk;
C. Great blue heron;
D. Osprey;
E. Peregrine falcon; and
F. Red-tailed hawk. (Ord. 15051 § 199, 2004).

21A.24.385 Wildlife habitat networks — applicability. The department shall make certain that segments of the wildlife habitat network are set aside and protected along the designated wildlife habitat network adopted by the King County Comprehensive Plan as follows:

A. This section applies to the following development proposals on parcels that include a segment of the designated wildlife habitat network:

1. All urban planned developments, fully contained communities, binding site plans, subdivisions and short subdivisions; and

2. All development proposals on individual lots unless a segment of the wildlife habitat network in full compliance with K.C.C. 21A.24.386 already exists in a tract, easement or setback area, and a notice of the existence of the segment has been recorded;

B. Segments of the wildlife habitat network must be identified and protected in one of the following ways:

1. In urban planned developments, fully contained communities, binding site plans, subdivisions and short subdivisions, native vegetation is placed in a contiguous permanent open-space tract with all developable lots sited on the remaining portion of the project site, or the lots are designed so that required setback areas can form a contiguous setback covering the network segments; or

2. For individual lots, the network is placed in a county-approved setback area. To the maximum extent practical, existing native vegetation is included in the network. The notice required by K.C.C. 21A.27.170 is required; and

C. All wildlife habitat network tracts or setback areas must meet the design standards in K.C.C. 21A.24.386. (Ord. 15051 § 201, 2004: Ord. 13694 § 90, 1999: Ord. 11621 § 52, 1994. Formerly K.C.C. 21A.14.260).

21A.24.386 Wildlife habitat networks — development standards and alterations. The following standards apply to development proposals and alterations on sites containing wildlife habitat network:

A. Unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C. 21A.24.045 are allowed in the wildlife habitat network;

B. The wildlife habitat network is sited to meet the following conditions:

1. The network forms one contiguous tract or setback area that enters and exits the property where the network crosses the property boundary;

2. To the maximum extent practical, the network maintains a width of three-hundred feet. The network width shall not be less than one-hundred-fifty feet at any point; and

3. The network is contiguous with and includes critical areas and their buffers;

4. To the maximum extent practical, the network connects isolated critical areas or habitat; and

5. To the maximum extent practical, the network connects with wildlife habitat network segments, open space tracts or wooded areas on adjacent properties, if present;

C. The wildlife habitat network tract must be permanently marked in accordance with this chapter;

D. An applicant proposing recreation, forestry or any other use compatible with preserving and enhancing the habitat value of the wildlife habitat network located within the site must have an approved management plan. The applicant shall include and record the approved management plan for a binding site plan or subdivision with the covenants, conditions and restrictions (CCRs), if any. Clearing within the wildlife habitat network in a tract or tracts is limited to that allowed by an approved management plan;

E. If the wildlife habitat network is contained in a setback area, a management plan is not required. Clearing is not allowed within a wildlife habitat network within a setback area on individual lots, unless the property owner has an approved management plan;

F. In urban planned developments, fully contained communities, binding site plans, subdivisions and short subdivisions a homeowners association or other entity capable of long term maintenance and operation shall monitor and assure compliance with any approved management plan;

G. Segments of the wildlife habitat network set aside in tracts, conservation easements or setback area must comply with K.C.C. 16.82.150;

H. The department may credit a permanent open space tract containing the wildlife habitat network toward the other applicable requirements such as surface water management and the recreation space requirement of K.C.C. 21A.14.180, if the proposed uses within the tract are compatible with preserving and enhancing the wildlife habitat value. Restrictions on other uses within the wildlife habitat network tract shall be clearly identified in the management plan;

I. The director may waive or reduce these standards for public facilities such as schools, fire stations, parks and road projects. (Ord. 15051 § 203, 2004: Ord. 11621 § 53, 1994. Formerly K.C.C. 21A.14.386).

21A.24.388 Wildlife habitat conservation areas and wildlife networks — specific mitigation requirements.

In addition to the requirements in K.C.C. 21A.24.130, 21A.24.125 and 21A.24.133, the following applies to mitigation to compensate for the adverse impacts associated with wildlife habitat conservation areas and wildlife habitat networks:

A. Mitigation to compensate for the adverse impacts to a wildlife habitat conservation area must prevent disturbance of each protected species. On-site mitigation may include management practices, such as timing of the disturbance. Off-site mitigation is limited to sites that will enhance the wildlife habitat conservation area;

B. Mitigation to compensate for the adverse impacts to the wildlife habitat network must achieve equivalent or greater biologic functions including, but not limited to, habitat complexity and connectivity functions. Specific mitigation requirements for impacts to the wildlife habitat network shall:

1. Expand or enhance the wildlife network as close to the location of impact as feasible; and
2. Attain the following ratios of area of mitigation to area of alteration:
   a. for mitigation on site:
      (1) 1:1 ratio for rectifying an illegal alteration to a wildlife habitat network; and
      (2) 1.5:1 ratio for enhancement or restoration; and
   b. for mitigation off-site:
      (1) 2:1 ratio for rectifying an illegal alteration to a wildlife habitat network; and
      (2) 3:1 ratio for enhancement or restoration;

C. For temporary alterations, the department may require rectification, restoration or enhancement of the altered wildlife habitat network;

D. The department may increase the width of the wildlife habitat network to mitigate for risks to habitat functions;

E. To the maximum extent practical, mitigation projects involving wildlife habitat network restoration should provide replication of the site's prealteration natural environment including:

1. Soil type, conditions and physical features;
2. Vegetation diversity and density; and
3. Biologic and habitat functions; and

F. The department may modify the requirements in this section if the applicant demonstrates that greater wildlife habitat functions will be obtained in the same wildlife habitat conservation area or wildlife habitat network through alternative mitigation measures. (Ord. 15051 § 204, 2004).

21A.24.390 Critical areas mitigation fee — creation of fund. There is hereby created a critical areas mitigation fund. The King County finance and business operations division shall administer this fund. (Ord. 15051 § 205, 2004: Ord. 10870 § 486, 1993).

21A.24.400 Critical areas mitigation fee — source of funds. King County shall deposit all moneys received from penalties resulting from the violation of rules and laws regulating development and activities within critical areas into the fund. (Ord. 15051 § 206, 2004: Ord. 10870 § 487, 1993).

21A.24.410 Critical areas mitigation fee — use of funds. Moneys from the fund shall only be used for paying the cost of enforcing and implementing critical area laws and rules. (Ord. 15051 § 207, 2004: Ord. 10870 § 488, 1993).

21A.24.420 Critical areas mitigation fee — investment of funds. King County shall deposit moneys in the fund not needed for immediate expenditure in a separate investment fund in accordance with RCW 36.29.020. The director is the designated investment fund director. (Ord. 15051 § 208, 2004: Ord. 10870 § 489, 1993).

21A.24.500 Critical area designation.

A.1. A property owner or the property owner's agent may request a critical area designation for part or all of a site, without seeking a permit for a development proposal, by filing with the department a written application for a critical area designation on a form provided by the department. If the request is for review of a portion of a site, the application shall include a map identifying the portion of the site for which the designation is sought.

2. The designation is limited to the following determinations:

a. The existence, location, and boundaries of any aquatic area, wetland, critical aquifer recharge area, coal mine hazard area, landslide hazard area or steep slope on the site; and

b. The classification of any aquatic area or wetland.

3. The designation may include an evaluation or interpretation of the applicability of critical area buffers and other critical area standards to a future development proposal.

B. In preparing the critical area designation, the department shall perform a critical area review to:

1. Determine whether any critical area that is subject to this designation process exists on the site and confirm its type, location, boundaries and classification;

2. Determine whether a critical area report is required to identify and characterize the location, boundaries and classification of the critical area;

3. Evaluate the critical area report, if required; and

4. Document the existence, location and classification of any critical area that is subject to this designation process.

C. If required by the department, the applicant for a critical area designation shall prepare and submit to the department the critical area report required by subsection B.2. of this section. For sites zoned for single detached dwelling units involving wetlands or aquatic areas, the applicant may elect to have the department conduct the special study in accordance with K.C.C. Title 27;

D. The department shall make the determination of a critical area designation in writing within one hundred twenty days after the application for a critical area designation is complete, as provided in K.C.C. 20.20.050. The periods in K.C.C. 20.20.100A.1. through 5. are excluded from the one-hundred-twenty-day period. The written determination made under this section as to the existence, location, classification of a critical area and critical area buffers is effective for five years from the date the determination is issued if there has been no change in site conditions. The department shall rely on the determination of the existence, location and classification of the critical area and the critical area buffer in its review of a complete application for a permit or approval filed within five years after the determination is issued. If the determination applies to less than an entire site, the determination shall clearly identify the portion of the site to which the determination applies.

E. If the department designates critical areas on a site under this section, the applicant for a development proposal on that site shall submit proof that a critical area notice has been filed as required by K.C.C. 21A.24.170. Except as provided in this subsection, the department's determination under this section is final. If the department relies on a critical area designation made under this section during its review of an application for a permit or other approval of a development proposal and the permit or other approval is subject to an administrative appeal, any appeal of the designation shall be consolidated with and is subject to the same appeal process as the underlying development proposal. If the King County hearing examiner makes the county's final decision with regard to the permit or other approval type for the underlying development proposal, the hearing examiner's decision constitutes the county's final decision on the designation. If the King County council, acting as a quasi-judicial body, makes the county's final decision with regard to the permit or other approval type for the underlying development proposal, the King County council's decision constitutes the county's final decision on the designation. (Ord. 15051 § 209, 2004: Ord. 14187 § 1, 2001).

21A.24.505 Conversion of designated critical areas.

A. For purposes of determining the minimum buffer widths for a wetland or aquatic area that was designated under K.C.C. 21A.24.500 before January 1, 2005, for a development proposal deemed complete after January 1, 2005, the department shall apply the following conversions to determine the appropriate wetland or aquatic area classification provided in K.C.C. 21A.24.318 and 21A.24.355:

1. Aquatic area classifications:

Stream Type (prior K.C.C. 21A.24.360)	Aquatic Area Classification (K.C.C. 21A.24.355)
Class 1	Type S
Class 2	Type F
Class 2S	Type F
Class 3	Type N

2. Wetland classification:

Wetland Class (prior K.C.C. 21A.06.1415)	Wetland Classification (K.C.C. 21A.24.318)
Class 1	Category I
Class 2	Category II
Class 3	Category III

B. As an alternative to the reclassification prescribed in subsection A. of this section, an applicant may request a reclassification of the wetland or aquatic area using the criteria in K.C.C. 21A.24.318 and 21A.24.355.

C. This section expires two years after January 1, 2005. (Ord. 15051 § 210, 2004).

21A.24.510 Septic system design and critical area designation. An applicant proposing to install a septic system or locate a well shall apply for a critical area designation under K.C.C. 21A.24.500 before seeking approval of the septic system design or well location from the Seattle-King County department of public health. (Ord. 15051 § 211, 2004: Ord. 14187 § 2, 2001).

21A.24.515 Wetland monitoring study. The department of natural resources and parks, in consultation with the department of development and environmental services, shall conduct monitoring in one or two subbasins to evaluate the effect of this ordinance on wetland functions and values. The departments shall file a status report on the monitoring with the clerk of the council for distribution to the chair of the growth management and unincorporated areas committee, or its successor committee, not later than January 1, 2007. The departments shall file a final report on the monitoring with the clerk of the council for distribution to the chair of the growth management and unincorporated areas committee, or its successor committee, not later than January 1, 2010. (Ord. 15051 § 230, 2004).

21A.24.520 Buffer modifications to achieve zoned density. If a property owner is unable to subdivide a rural residential zoned parcel twenty acres or smaller at the density allowed under K.C.C. 21A.12.030 after application of the requirements of this chapter, the director may approve modifications to requirements for critical area buffers if:

A. The applicant demonstrates that after the use of all provisions of this title, including but not limited to, clustering and buffer averaging, reduction in critical area buffers required by this chapter is necessary to achieve the density allowed under K.C.C. 21A.12.030;

B. To the maximum extent practical, the subdivision or short subdivision design has the least adverse impact on the critical area and critical area buffer;

C. The modification does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest; and

D. The applicant provides mitigation to compensate for the adverse impacts to critical areas and buffers resulting from any modification to critical area buffers approved under this section. (Ord. 15051 § 231, 2004).

21A.24.530 Vesting period for lots in final short plats. Unless the department finds that a change in conditions creates a serious threat to the public health or safety in the short subdivision, for a period of five years after recording, a lot within a short subdivision shall be governed by the provisions of this chapter in effect at the time a fully completed application for short subdivision approval was filed in accordance with K.C.C. chapter 20.20. (Ord. 15051 § 232, 2004).

21A.24.540 Reliance upon standards established through critical area review of a previously approved conditional use permit. For a development proposal that requires a conditional use permit, the provisions of this chapter in effect at the time a complete application for the conditional use permit was submitted shall apply to the development proposal if:

A. Critical areas on the development proposal site have been categorized and delineated and the impacts of development on the critical areas have been considered in the review of the conditional use permit;

B. There are no outstanding violations of the conditions of the approved conditional use permit relating to the protection of the critical area;

C. The development proposal is in compliance with all conditions that have been imposed as part of the approved conditional use permit; and

D. The conditional use permit has not expired. (Ord. 15051 § 233, 2004).

21A.24.550 Consolidated site review for single-family residential development.

A. A development proposal shall be deemed to comply with the provisions of this chapter and the department shall not require additional critical areas, fire or drainage review of a development proposal for a single-family residential development that is consistent with the conditions established by the department in its review of the development proposal if the applicant meets all of the following requirements:

1. The applicant provides to the department a critical areas report prepared by a preferred consultant, as provided in K.C.C. Title 27, for the critical areas on the development proposal site;

2. The department has issued a critical areas designation under K.C.C. 21A.24.500. If applicable, the designation shall be issued before septic system design, application and approval;

3. The development proposal qualifies for small project drainage review and does not require targeted drainage review under K.C.C. chapter 9.04;

4. The development proposal does not require an alteration exception or reasonable use exception under this chapter, a variance from road standards under K.C.C. Title 14 or a drainage adjustment under K.C.C. chapter 9.04; and

5. The development proposal locates structures, on-site septic drainfield areas, the well location, and other impervious surfaces, including but not limited to driveways, within the areas identified by the department.

B. If an applicant indicates on a form approved by the department that a development proposal for a single family residence will be proposed for review under this section, the department shall consolidate critical areas, drainage, road standards, and fire review. Based on the information provided by the applicant under this section, the department shall identify a development footprint on the property where the applicant may clear and place structures and other impervious surfaces in order to meet the requirements of this chapter and K.C.C. chapters 9.04 and 16.82. At the time of development permit application, the department shall screen the proposal for compliance with the conditions established by the department under this section, set the conditions of permit approval and, if required, establish the mitigation financial guarantee. (Ord. 15051 § 234, 2004).

21A.24.560 Vesting of an approved on-site sewage disposal system. An on-site sewage disposal system approved prior to January 1, 2005, shall be subject to the provisions of this chapter in effect at the time of the on-site sewage disposal system approval. (Ord. 15051 § 235, 2004).

Chapter 21A.26
DEVELOPMENT STANDARDS
COMMUNICATION FACILITIES

Sections:

(King County 6-2006)

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21A.26.010 Purpose. The purpose of this chapter is to establish guidelines for the siting of towers and antennas. The goals of this chapter are to:

A. Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community;

B. Strongly encourage the joint use of new and existing tower sites;

C. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

D. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;

E. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; and

F. Limiting exposures to NIER consistent with Federal Communication Commission statutes. (Ord. 13129 § 12, 1998: Ord. 10870 § 490, 1993).

21A.26.020 Exemptions. The following are exempt from the provisions of this chapter and shall be permitted in all zones:

A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the Federal Communications Commission (FCC);

B. Machines and equipment that are designed and marketed as consumer products, such as microwave ovens and remote control toys;

C. The storage, shipment or display for sale of transmission equipment;

D. Radar systems for military and civilian communication and navigation;

E. Hand-held, mobile, marine and portable radio transmitters and/or receivers;

F. Two-way radio utilized for temporary or emergency services communications;

G. Licensed amateur (Ham) radio stations and citizen band stations;

H. Earth station downlink using satellite dish antennas with a diameter of less than 12 feet provided that stations in excess of one dish antennas are subject to conditional use permits;

I. Receive-only satellite dish antennas as an accessory use;

J. Two-way radio antennas, point-to-point microwave dishes, and cellular radio antennas which are not located on a transmission structure (lattice towers and monopoles); and

K. Any maintenance, reconstruction, repair or replacement of a conforming or nonconforming communication facility, transmission equipment, transmission structure or transmitter building; provided, that the transmission equipment does not result in noncompliance with K.C.C. 21A.26.100 and 21A.26.130.

L. In the event a building permit is required for any emergency maintenance, reconstruction, repair or replacement, filing of the building permit application shall not be required until 30 days after the completion of such emergency activities. In the event a building permit is required for nonemergency maintenance, reconstruction, repair or replacement, filing of the building permit application shall be required prior to the commencement of such nonemergency activities. (Ord. 10870 § 491, 1993).

21A.26.030 Applicability. The standards and process requirements of this chapter supersede all other review process, setback or landscaping requirements of this title. All communication facilities which are not exempt pursuant to K.C.C. 21A.26.020 shall comply with the provisions of this chapter as follows:

A. New communication facilities, with the exception of consolidations, shall comply with the provisions of K.C.C. 21A.26.020 through 21A.26.130 and K.C.C. 21A.26.160 through 21A.26.190; new minor communication facilities shall also comply with applicable provisions of this chapter, and, in case of conflict, the provisions of this chapter shall apply;

B. Modified communication facilities, with the exception of consolidations, shall comply with standards as provided in K.C.C. 21A.26.020, K.C.C. 21A.26.060 through 21A.26.140, and K.C.C. 21A.26.160 through 21A.26.190, modifications to minor communication facilities shall also comply with the applicable provisions of this chapter, and, in case of conflict, the provisions of this chapter shall apply;

C. Consolidations shall comply with standards as provided in K.C.C. 21A.26.020, K.C.C. 21A.26.060 through 21A.26.130, and K.C.C. 21A.26.150 through 21A.26.190, consolidations to minor communication facilities shall also comply with the applicable provisions of this chapter, and, in the case of conflict, the provisions of this chapter shall apply. (Ord. 13129 § 23, 1998: Ord. 10870 § 492, 1993).

21A.26.050 Setback requirements. Except as outlined for modifications and consolidations pursuant to K.C.C. 21A.26.140 and 21A.26.150 or when setbacks are increased to ensure compliance with NIER exposure limits, communication facilities shall comply with the following setbacks:

A. Transmission structures, other than those for minor communication facilities, which do not exceed the height limit of the zone in which they are located, shall be set back from the property line as required for other structures by the zone in which such transmission structure is located;

B. Transmission structures, other than those for minor communication facilities, which exceed the height limit of the zone in which they are located, shall be set back from property lines either a minimum of fifty feet or one foot for every foot in height, whichever results in the greater setback, except:

1. Transmission structures, other than those for minor communication facilities located in the A, F, NB, CB, RB, O or I zones shall be set back from the property line as required by the zone in which they are located; and

2. Transmission structures for minor communication facilities shall be set back from the property line as provided in K.C.C. 21A.26.320;

C. When two or more communication facilities share a common boundary, the setback from such boundary shall comply with the requirements of the zone in which the facilities are located, unless easements are provided:

1. On the adjoining sites which limit development to communication facilities;

2. Of sufficient depth to provide the setbacks required in subsections A and B; and

3. Which provide for King County as a third party signatory to the agreement; and

D. Transmitter buildings shall be subject to the setback requirements of the zone in which they are located. (Ord. 13129 § 24, 1998: Ord. 11621 § 82, 1994: Ord. 10870 § 494, 1993).

21A.26.060 Landscaping requirements. A communication facility site shall provide landscaping as follows:

A. When the facility is located in:

1. The NB, CB, RB, O or I zone, the base of any transmission structure or transmitter building shall be landscaped with eight feet of Type II landscaping as defined by K.C.C. 21A.16.040B, if there is no existing landscaping consistent with K.C.C. chapter 21A.16 along the lot line abutting R, UR, or RA zoned properties.

2. The A, F or M zone, the base of the transmission structure or transmitter building shall be landscaped with ten feet of Type III landscaping (groundcover may be excluded) as defined by K.C.C. 21A.16.040C, if the base of such transmission structure or transmitter building is within three hundred feet of any lot line abutting R, UR, or RA zoned properties.

3. The R, UR or RA zone, the base of any transmission structure or transmitter building shall be landscaped with ten feet of Type I landscaping as defined by K.C.C. 21A.16.040A.

B. When a security fence is used to prevent access onto a transmission structure or transmitter building, any landscaping required pursuant to K.C.C. 21A.26.060A shall be placed outward of such security fence.

C. When a security fence is used:

1. In the NB, CB, RB, O or I zone, wood slats shall be woven into the security fence if made of chain-link material.

2. In the R, UR or RA zone, climbing evergreen shrubs or vines capable of growing on the fence shall supplement any landscaping required pursuant to K.C.C. 21A.26.060A.

D. Landscaping shall be planted according to accepted practice in good soil and maintained in good condition at all times. Landscaping shall be planted as a yard improvement at or before the time of completion of the first structure or within a reasonable time thereafter, considering weather and planting conditions.

E. Existing vegetation may be used and/or supplemented with additional vegetation to comply with the requirements of K.C.C. 21A.26.060A.

F. The director may waive or modify the provisions for landscaping at the base of the transmission support structure and equipment buildings when:

1. Existing structures on the site or the screening effects of existing vegetation on the site or along the site perimeter would preclude the ability to view the base of the tower or equipment building, or

2. The required landscaping is accessible to grazing animals and the animals would be better protected by placement of landscape materials within any proposed fencing or by the use of alternative landscaping vegetation that would not be toxic to the animals. (Ord. 13129 § 15, 1998: Ord. 10870 § 495, 1993).

21A.26.070 Color and lighting standards. Except as specifically required by the Federal Aviation Administration ("FAA") or the FCC, transmission structures shall:

A. Use colors such as grey, blue or green which reduce their visual impacts; provided, wooden poles do not have to be painted; and

B. Not be illuminated, except transmitter buildings may use lighting for security reasons which is compatible with the surrounding neighborhood. (Ord. 10870 § 496, 1993).

21A.26.080 Fencing and NIER warning signs. Communication facility sites shall be:

A. Fenced in a manner which prevents access by the public to transmission structures and/or areas of the site where NIER or shock/burn levels are exceeded. This may be modified if natural features, such as an adjoining waterway, or a topographic feature preclude access;

B. Signed to warn the public of areas of the site where:

1. NIER standards are exceeded; and
2. Potential risks for shocks or burns are present. (Ord. 10870 § 497, 1993).

21A.26.090 Interference. Permit applications for communication facilities shall include:

A. A statement describing the nature and extent of interference which may be caused by the proposed communication facility and the applicant's responsibilities under FCC rules and regulations;

B. Unless the department determines that there will be no noticeable interference from the proposed communication facility, notification of expected interference shall be provided as specified in K.C.C. 21A.26.170; and

C. General information concerning the causes of interference and steps which can be taken to reduce or eliminate it. (Ord. 10870 § 498, 1993).

21A.26.100 NIER exposure standards. To prevent whole-body energy absorption of .08 W/Kg or more, a communication facility, by itself or in combination with others, shall not expose the public to NIER that exceeds the electric or magnetic field strength, or the power density, for the frequency ranges and durations described as follows:

NIER Exposure Standards (1) (6)

Frequency (2)	Mean squared electric field strength (3)	Mean squared magnetic field strength (4)	Equivalent plane-wave power density (5)
0.1 to 3	80,000	0.5	20,000
3 to 30	4,000 x ($180/f^2$)	0.025 x ($180/f^2$)	$180,000/f^2$
30 to 300	800	0.005	200
300 to 1500	4,000 x (f/1500)	0.025 x (f/1500)	f/1.5
1500 to 300,000	4,000	0.025	1000

(1) All standards refer to root mean squared measurements averaged over a six minute period;
(2) Frequency or f is measured in megahertz (MHz);
(3) Electric field strength is expressed in volts squared per meter squared (V^2/m^2);
(4) Magnetic field strength is expressed in amperes squared per meter squared (A^2/m^2); and
(5) Power density is expressed in microwatts per centimeter squared (uW/cm^2).
(6) Peak NIER levels shall not exceed the following equivalent plane-wave power densities:
    a. Twenty times the average values in the frequencies below 300 MHz;
    b. 4,000 uW/cm^2 in the frequencies between 300 Mhz to 6,000 MHz;
    c. (f/1.5)uW/cm^2 in the frequencies 6,000 MHz to 30,000 MHz; and
    d. 20,000 uW/cm^2 in the frequencies above 30 GHz.

(Ord. 10870 § 499, 1993).

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21A.26.110 NIER measurements and calculations. NIER levels shall be measured and calculated as follows:

A. When measuring NIER for compliance with K.C.C. 21A.26.100:

1. Measuring equipment used shall be generally recognized by the Environmental Protection Agency (EPA), National Council on Radiation Protection and Measurement (NCRPM), American National Standards Institute (ANSI), or National Bureau of Standards (NBS) as suitable for measuring NIER at frequencies and power levels of the proposed and existing sources of NIER;

2. Measurement equipment shall be calibrated as recommended by the manufacturer in accordance with methods used by the NBS and ANSI, whichever has the most current standard;

3. The effect of contributing individual sources of NIER within the frequency range of a broadband measuring instrument may be specified by separate measurement of these sources using a narrowband measuring instrument;

4. NIER measurements shall be taken when and where NIER levels are expected to be highest due to operating or environmental conditions;

5. NIER measurements shall be taken along the perimeter of the communication facility site and other areas on-site or off-site where the health department deems necessary to take measurements; and

6. NIER measurements shall be taken following spatial averaging procedures generally recognized and used by experts in the field of RF measurement or other procedures recognized by the FCC, EPA, NCRPM, ANSI, NBS;

B. NIER calculations shall be consistent with the FCC, Office of Science and Technology (OST) bulletin 65 or other engineering practices recognized by the EPA, NCRPM, ANSI, NBS or similarly qualified organization; and

C. Measurements and calculations shall be certified by a licensed professional engineer and shall be accompanied by an explanation of the protocol, methods, equipment, and assumptions used. (Ord. 10870 § 500, 1993).

21A.26.120 Measurements and monitoring.

A. The department of public health shall measure or contract for measurement of NIER levels as necessary to insure that the NIER standard is not being exceeded.

B. If the NIER level of an existing major communication facility has not been measured within 3 years of the effective date of this title, such facility shall be measured within 120 days from the effective date of this title. All major communication facilities shall be measured every third year thereafter. The measurements shall be submitted to the department of public health for review within 60 days of measurement. The department shall be reimbursed for its review of the measurements pursuant to this section.

C. New major communication facilities shall be measured within 120 days from the commencement of the operation and every third year thereafter. The department shall be reimbursed for its review of the measurements pursuant to this section.

D. The department of public health shall have the authority to assess fees for the cost of plan review. The fee shall be based upon the time required by staff, including overhead cost, for plan review. (Ord. 10870 § 501, 1993).

21A.26.130 Shock and burn standard. The communication facility shall not emit radiation such that the public will be exposed to shock and burn in excess of the standards contained in ANSI C-95.1 or subsequent amendments thereto recognized by ANSI. (Ord. 10870 § 502, 1993).

21A.26.140 Modifications.

A. Cumulative modifications of conforming or nonconforming communication facilities, transmission structures or transmission equipment which do not increase the overall height of the transmission structure or transmission equipment by more than thirty percent shall be allowed provided:

1. A nonconformance with respect to the transmission structure shall not be created or increased, except as otherwise provided above as to height;

2. Existing perimeter vegetation or landscaping shall not be reduced; and

3. The modification results in compliance with K.C.C. 21A.26.100 and 21A.26.130. The applicant shall provide King County a detailed certification of compliance with these provisions which has been prepared by a licensed professional engineer.

4. For minor communication facilities, the allowances for increased height established by this chapter shall be complied with.

B. Except for consolidations allowed by K.C.C. 21A.26.150, modifications which increase the overall height of the transmission structure or transmission equipment by more than 30 percent shall be subject to the following provisions:

1. Applications for such transmission structures shall be reviewed pursuant to the applicable process specified in this chapter; and

2. Such transmission structures shall comply with the provisions of K.C.C. 21A.26.020, K.C.C. 21A.26.060 through 21A.26.140, K.C.C. 21A.26.160 through 21A.26.190, and Ordinance 13129, and for minor communication facilities, in case of conflict, the provisions of Ordinance 13129 shall control. (Ord. 13129 § 25, 1998: Ord. 10870 § 503, 1993).

21A.26.150 Consolidation. Consolidation of two or more existing transmission structures may be permitted subject to the following:

A. If the consolidated transmission structure cannot meet the requirements of K.C.C. 21A.26.050, it shall be located on the portion of the parcel on which it is situated which, giving consideration to the following, provide the optimum practical setback from adjacent properties:

1. Topography and dimensions of the site,

2. (in the case of a consolidation) to any existing structures to be retained, and

3. (in the case of a guyed transmission tower) to guy anchor placement necessary to assure structural integrity of the consolidated transmission tower.

Consolidated transmission structures shall be set back from abutting residential property a minimum of ten percent of the height of the consolidated transmission structure, but in all cases no less than 100 feet;

B. If a consolidation involves the removal of transmission structures from two or more different sites and if a consolidated transmission structure is to be erected on one of those sites, it shall be erected on the site which provides for the greatest compliance with the standards of this chapter;

C. All existing transmission equipment on the site of a communication facility which does not comply with the provisions of this chapter shall be relocated to the consolidated transmission structure before the relocation of transmission equipment from a non-exempt off-site, conforming communication facility is permitted;

D. The consolidation shall eliminate NIER and electrical current levels attributable to the consolidating transmission equipment which exceed the limits of K.C.C. 21A.26.100 and 21A.26.130;

E. Any transmission structure to be removed as part of a consolidation shall be removed within 12 months of relocation of the transmitting equipment;

F. Consolidation shall result in a net reduction in the number of transmission structures; and

G. Consolidated facilities shall require a conditional use permit. (Ord. 10870 § 504, 1993).

21A.26.160 Supplemental application requirements.

A. In addition to any required site plan, a permit application for any communication facility shall also include:

1. A site plan which shows existing and proposed transmission structures; guy wire anchors; warning signs; fencing and access restrictions;

2. A report by a licensed professional engineer demonstrating compliance with applicable structural standards of the UBC, and describing the general structural capacity of any proposed transmission structure(s), including:

a. The number and type of antennas that can be accommodated; and

b. The basis for the calculation of capacity;

3. A report by a state licensed professional engineer that includes the following:

a. A description of any proposed transmission tower(s) or structure(s), including height above grade, materials, color and lighting; and

b. Information related to interference required by K.C.C. 21A.26.090.

B. Where a permit for a non-exempt communication facility is required, the application shall also include the following information:

1. The name and address of the operator(s) of proposed and existing antennas on the site;
2. The height of any proposed antennas;
3. Manufacture, type, and model of such antennas;
4. Frequency, modulation and class or service;
5. Transmission and maximum effective radiated power;
6. Direction of maximum lobes and associated radiation;
7. The calculated NIER levels attributable to the proposed antennas at points along the property line and other areas off-site which are higher than the property line points, as well as calculated power density (NIER levels) in areas that are expected to be unfenced on-site;
8. For a major communication facility, if there is another major communication facility within one mile of the site of the proposed facility, the level of NIER at the points identified in subsection B.7. as measured within 30 days prior to application; and
9. For a minor communication facility, if there is an existing major communication facility within one-half mile of the site of the proposed facility, the level of NIER at the points identified in subsection B.7. as measured within 30 days prior to the application. (Ord. 10870 § 505, 1993).

21A.26.170 Notification requirements. Notification of a permit application shall be given to adjacent property owners within a 500 foot radius and the local community council. The area within which mailed notice is required shall be expanded to include at least 20 different owners in rural or lightly inhabited areas or in other appropriate cases to the extent the department determines is necessary. The standards of published notice and posting of property required by K.C.C. 21A.42 shall be pursuant to K.C.C. 21A.40. (Ord. 10870 § 506, 1993).

21A.26.180 NIER compliance criteria. The department of public health shall consider the following criteria in determining compliance with K.C.C. 21A.26.100:

A. The number and location of points at which levels have been determined to exceed NIER standards;

B. The duration of exposure to NIER levels above the standard;

C. The extent by which the levels measured at such points exceed the standards established by this chapter; and

D. The relative contribution of individual sources in a multiple source environment. (Ord. 10870 § 507, 1993).

21A.26.190 NIER enforcement.

A. The department of public health shall be responsible for the enforcement of the provisions of K.C.C. 21A.26.100 in accordance with K.C.C. 23. The department director shall allow no more than 10 days to elapse from the date of a violation before corrective action is commenced. If this deadline cannot be met, the director shall issue a stop work order.

B. If the approved NIER standard is exceeded in an area where there are multiple users and transmission equipment, all users shall share in the NIER the reduction will adequately protect the proposed development and the sensitive area; reductions, scaled proportionally to their current discharges. (Ord. 10870 § 508, 1993).

21A.26.200 Periodic review of NIER standard. The department of public health shall review the county approved NIER standard every three years and report to the chair of the council on whether it should be changed. (Ord. 10870 § 509, 1993).

21A.26.210 State regulation.

A. If state regulations establish a NIER exposure standard which is more restrictive than the county standard, the state standard shall automatically become effective.

B. If such state standards are intended to preempt local enforcement with respect to specific sections of this chapter, said sections shall automatically be deemed ineffective.

C. Application of the provisions of this chapter shall be subject to any rule, regulation, order or decision of any state or federal court or government agency with which such communication facility is obligated to comply. (Ord. 10870 § 510, 1993).

21A.26.300 Minor communication facilities - preapplication community meetings. When a new transmission support structure is proposed, a community meeting shall be convened by the applicant prior to submittal of an application.

A. At least two weeks in advance, notice of the meeting shall be provided as follows:

1. Published in the local paper and mailed to the department and to the unincorporated area council serving the area in which potential sites are contemplated, and

2. Mailed notice shall be provided to all property owners within five hundred feet (or at least twenty of the nearest property owners, whichever is greater) as required by K.C.C. 21A.26.170 of any potential sites, identified by the applicant for possible development, to be discussed at the community meeting. When the proposed transmission support structure exceeds a height of one hundred twenty feet, the mailed notice shall be provided to all property owners within one thousand feet. The mailed notice shall at a minimum contain a brief description and purpose of the project, the estimated height, approximate location noted on an assessor map with address and parcel number, photo or sketch of proposed facility, a statement that alternative sites proposed by citizens can be presented at the meeting which will be considered by the applicant, a contact name and telephone number to obtain additional information and other information deemed necessary by King County. Because the purpose of the community meeting is to promote early discussion, applicants are encouraged to note any changes to the conceptual information presented in the mailed notice when they submit an application.

B. At the community meeting at which at least one employee of the department of development and environmental services, assigned by the director of the department, shall be in attendance, the applicant shall provide information relative to existing transmission support structures and other nonresidential structures, such as water towers and electrical transmission lines, within one-quarter mile of potential sites, and shall discuss reasons why those existing structures are unfeasible. Furthermore, any alternative sites within one-quarter mile, identified by community members and provided to the applicant in writing at least five days in advance of the meeting, shall be evaluated by the applicant to the extent possible given the timeframe, and discussed at the meeting. A listing of the sites, identified in writing and provided to the applicant at or before the community meetings, shall be submitted to the department with the proposed application. Applicants shall also provide a list of meeting attendees and those receiving mailed notice and a record of the published meeting notice at the time of application submittal. (Ord. 13129 § 2, 1998).

21A.26.310 Minor communication facilities - review process. Minor communication facilities shall be reviewed as follows:

MINOR COMMUNICATION FACILITIES - REVIEW PROCESS

Zone District(s)	Antenna	Transmission Support Structure
I, RB, CB NB, O	P	P C[1]
F, M	P	P C[1]
UR, RA, A	P	P[2] C[1 and 2]
R1 - R48	P	P C[1]

P - Permitted Use
C - Conditional Use

[1] If the proposal exceeds the development standards of this chapter contained in K.C.C. 21A.26.320 for transmission support structures, the proposal shall be reviewed through this process.

[2] The proposed transmission support structure shall not be located on any RA or A zoned site for which the development rights have been encumbered by the farmlands preservation program.

(Ord. 13129 § 3, 1998).

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21A.26.320 Minor communication facilities - development standards for transmission support structures. A new transmission support structure exceeding the standards of this section are subject to the conditional use permit process as outlined in K.C.C. 21A.26.310. These provisions do not apply to transmission support structures that are being modified or replaced pursuant to the provisions of K.C.C. 21A.26.380 or replace an existing transmission support structure.

MINOR COMMUNICATION FACILITIES - DEVELOPMENT STANDARDS

Zone District(s)	Height and Location Of Tower	Setbacks 1
I	140 feet high	50 feet (or one foot setback for every one foot in height) from any UR, RA, A, or R1 - R48 zone property, whichever provides the greatest setback
RB, CB	120 feet high	SAME AS ABOVE
NB, O, UR, RA, A, R1 - R48	60 feet high	SAME AS ABOVE
F, M	140 feet high	SAME AS ABOVE

[1]Setbacks may be modified to achieve additional screening, see K.C.C. 21A.26.330C or as provided in K.C.C. 21A.26.050.

(Ord. 13129 § 4, 1998).

21A.26.330 Minor communication facilities - visual compatibility standards. With consideration to engineering and structural requirements, and the coverage patterns the provider is seeking to achieve, minor communication facilities shall be subject to the following visual compatibility standards in addition to K.C.C. 21A.44.040.

A. Antenna should, to the extent practicable, reflect the visual characteristics of the structure to which it is attached. This should be achieved through the use of colors and materials, as appropriate. When located on structures such as buildings or water towers, the placement of the antenna on the structure should reflect the following order of priority in order to minimize visual impact:

1. A location as close as possible to the center of the structure, and
2. long the outer edges or side-mounted, provided that in this instance, additional means such as screens should be considered and may be required by the department on a case-by-case basis, and
3. When located on the outer edge or side-mounted, be placed on the portion of the structure less likely to be seen from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways.

B. To the extent that there is no conflict with the color and lighting requirements of the Federal Communication Commission and the Federal Aviation Administration for aircraft safety purposes, transmission support structures shall be designed to blend with existing surroundings to the extent feasible. This should be achieved through the use of compatible colors and materials, and alternative site placement to allow the use of topography, existing vegetation or other structures to screen the proposed transmission support structure from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways.

C. The setback provisions of K.C.C. 21A.26.320 may be waived by the department or the examiner, in order to achieve greater levels of screening than that which would be available by using the stated setback, during the course of the review process described in K.C.C. 21A.26.310. In waiving the requirement, the department or examiner shall consider the protection of adjacent lands on the basis of the priorities stated in subsections A and B of this section. (Ord. 13129 § 5, 1998).

21A.26.340 Minor communication facilities - additional standards to reduce degree of visual impact. The department shall also consider the following criteria and give substantial consideration to on-site location and setback flexibility authorized in K.C.C. 21A.26.330C when reviewing applications for new free-standing towers and determining appropriate levels of mitigation:

A. Whether existing trees and vegetation can be preserved in such a manner that would most effectively screen the proposed tower from residences on adjacent properties;

B Whether there are any natural land-forms, such as hills or other topographic breaks, that can be utilized to screen the tower from adjacent residences;

C. Whether the applicant has utilized a tower design that reduces the silhouette of the portion of the tower extending above the height of surrounding trees; and

D. Whether the factors of subsections B and C can be addressed and the height of the proposed tower be reduced and still provide the level of coverage proposed by the applicant. (Ord. 13129 § 17, 1998).

21A.26.350 Minor communication facilities - time limits and establishment period. The building permit shall become null and void if construction of the transmission support structure has not begun within one year after the effective date of permit approval or if antennas are not installed within one hundred eighty days after construction of the transmission support structure. Extensions shall be allowed only in accordance with the criteria specified for building permit extensions in K.C.C. 16.04.05013. (Ord. 13129 § 6, 1998).

21A.26.360 Minor communication facilities - cessation of use. Antenna shall be removed from transmission support structures within one hundred eighty days after the antenna is no longer operational. Transmission support structures for wireless communication facilities shall be removed within one year of the date the last antenna is removed. (Ord. 13129 § 7, 1998).

21A.26.370 Minor communication facilities - collocation.

A. Upon application for a conditional use permit or a building permit for a new free-standing tower, whichever is required first, the applicant shall provide a map showing all existing transmission support structures or other suitable nonresidential structures located within one-quarter mile of the proposed structure with consideration given to engineering and structural requirements. No new transmission support structure shall be permitted if an existing structure suitable for attachment of an antenna or collocation is located within one-quarter mile, unless the applicant demonstrates that the existing structure or a new structure complying with K.C.C. 21A.26.380:

1. would be physically or technologically unfeasible pursuant to K.C.C. 21A.26.420, or
2. is not made available for sale or lease by the owner, or
3. is not made available at a market rate cost, or
4. would result in conflicts with Federal Aviation Administration height limitations.

B. The burden of proof shall be on the applicant to show that a suitable existing, modified or replacement structure for mounting of antenna or collocation cannot be reasonably or economically used in accordance with these criteria.

C. Prior to the receipt of a building permit to construct a new tower, the applicant shall file a letter agreeing to allow collocation on the tower with the department. The agreement shall commit the applicant to provide, either at a market rate cost or at another cost basis agreeable to the affected parties, the opportunity to collocate the antenna of other service providers on the applicant's proposed tower to the extent that such collocation is technically feasible for the affected parties.

D. All new or modified transmission support structures shall be constructed in a manner that would provide sufficient structural strength to allow the collocation of additional antenna from other service providers. (Ord. 14045 § 50, 2001: Ord. 13129 § 8, 1998).

21A.26.380 Minor communication facilities - modifications. Antenna modifications consistent with the provisions of K.C.C. 21A.26.390 are permitted outright. Modifications to transmission support structures are also permitted outright, provided there is no increase in the height of the transmission support structure except when:

A. Necessary to accommodate the actual collocation of the antenna of other service providers, or to accommodate the current providers antenna required to utilize new technology, such as digital transmissions;

B. Limited to no more than forty feet above the height of the existing transmission support structure; and

C. Proposed in a residential zone and the proposed height exceeds sixty feet and is demonstrated by the applicant to be required to meet the proposed area of coverage. If proposed in a residential zone, notice and a comment period shall be provided consistent with the provisions of K.C.C. 20.20.060. If the need for additional height is challenged within the comment period specified, technical evaluation as provided for in K.C.C. 21A.26.450 shall be conducted. The department may approve, require additional mitigation, or deny the proposed height increase on the basis of this technical evaluation. (Ord. 14045 § 51, 2001: Ord. 13129 § 9, 1998).

21A.26.390 Minor communication facilities - antennas. Antennas meeting the standards of this section are permitted outright. An antenna shall not extend more than six feet horizontally from any structure to which it is attached. Furthermore, an antenna shall not extend vertically above the uppermost portion of the structure to which it is mounted or attached, as follows:

A. Not more than twenty feet on a nonresidential structure, and

B. Not more than fifteen feet on a residential structure. (Ord. 13129 § 10, 1998).

21A.26.400 Minor communication facilities - location within street, utility and railroad rights-of-way.

A. The mounting of antenna upon existing structures, such as light and power poles, located within publicly or privately maintained street, utility and railroad right-of-ways is permitted outright. If an existing structure within a street, utility, or railroad rights-of-ways cannot accommodate an antenna due to structural deficiency or does not have the height required to provide adequate signal coverage, the structure may be replaced with a new structure that will serve the original purpose and will not exceed the original height by forty feet. However, minor communication facilities within street, utility and railroad right-of-way that propose the construction of a separate structure used solely for antenna shall be subject to the zoning provisions applicable to the property abutting the portion of right-of-way where the structure is proposed except that the setbacks specified in the zoning code shall not apply. Setbacks shall be those specified in the road design standards. In cases where the abutting property on either side of the right-of-way has different zoning, the more restrictive zoning provisions shall apply.

B. The placement of antenna on existing or replacement structures within street, utility or railroad rights-of-way is the preferred alternative in residential neighborhoods and the Rural Areas and the feasibility of such placement shall be considered by the county whenever evaluating a proposal for a new transmission support structure, except for a new structure that is proposed to collocate antenna for two or more separate service providers. (Ord. 14045 § 52, 2001: Ord. 13129 § 11, 1998).

21A.26.410 Minor communication facilities - public parks and open spaces owned by King County. Within public parks and open spaces owned by King County, the placement of antennas on existing structures, such as power poles, light poles for streets and parking lots, light standards for recreational fields and communication towers, is the preferred option. If an existing structure within a county-owned park or open space cannot accommodate an antenna due to structural deficiency, or does not have the height required to provide adequate signal coverage, the structure may be replaced with a new structure provided that the new structure will serve the original purpose and not exceed the original height by forty feet. Any height increase in excess of forty feet will require a conditional use permit.

The construction of a new free-standing tower within public parks and open spaces owned by King County shall be subject to a conditional use permit when the height of the proposed tower exceeds sixty feet. (Ord. 14045 § 53, 2001: Ord. 13129 § 14, 1998).

21A.26.420 Minor communication facilities - criteria for determining technical feasibility. When an applicant is required to demonstrate that an existing, modified or replacement structure is not technically feasible for collocation, the evidence submitted to corroborate that finding may consist of any of the following:

A. No existing structures are located within the geographic area required to meet the applicant's proposed area of coverage.

B. Existing structures are not of sufficient structural strength to support the applicant's proposed antenna and related equipment and the cost of modification or replacement of an existing structure to allow collocation would equal or exceed that of the construction of the new structure.

C. Existing structures or structures modified consistent with K.C.C. 21A.26.380 would not be of sufficient height required to meet the applicant's proposed area of coverage or allow microwave connection to other sites operated by the applicant.

D. The applicant's proposed antenna would cause interference between the proposed and existing antenna, and that even the additional height permitted for collocations pursuant to K.C.C. 21A.26.380 would not ensure enough separation to avoid such interference. (Ord. 14045 § 54, 2001: Ord. 13129 § 16, 1998).

21A.26.430 Minor communication facilities - applicability to vested applications. The standards of Ordinance 13129 shall not apply to vested applications for conditional use permits and building permits for transmission support structures. Furthermore, the standards, except for the antenna mounting provisions of K.C.C. 21A.26.390, shall not apply to new building permits required to construct a transmission support structure that been authorized through a prior-vested or prior-approved conditional use or special use permit. (Ord. 13129 § 18, 1998).

21A.26.440 Minor communication facilities - standards within city potential annexation areas. Within the approved potential annexation areas of a city, the agreed upon permitting jurisdiction shall apply the provisions of the applicable city as provided for by an interlocal agreement that has been entered into between the city and the county. The city standards would be applied when adopted in an ordinance by King County. (Ord. 13129 § 21, 1998).

21A.26.450 Minor communications facilities – technical evaluation. The department of development and environmental services shall retain the services of a registered professional electrical engineer accredited by the state of Washington who holds a Federal Communications General Radio telephone Operator License. The engineer will provide technical evaluation of permit applications for minor communications facilities. The department is authorized to charge the applicant for these services. The specifications for an RFP to retain a consulting engineer shall specify at least the qualifications noted above, the capacity to provide a three week turnaround on data review, a request for a proposed fixed fee for services and shall state a preference for a qualified professional with a balance of experience in both the private and public sectors. Such a review shall be performed in a timely manner, be limited to the data necessary to establish findings pursuant to K.C.C. 21A.26.420C and 21A.26.420D, and avoid any conflicts with the department's duty to review permit applications within one hundred twenty days of acceptance pursuant to RCW 36.70B.090. This review shall be performed when requested by affected residents pursuant to K.C.C. 21A.26.380. (Ord. 13129 § 22, 1998).

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